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REASON

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March 1994

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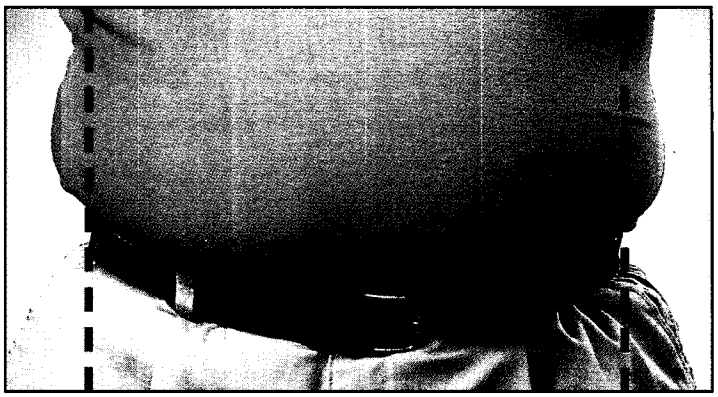

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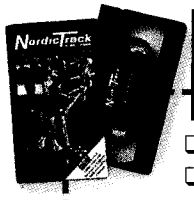

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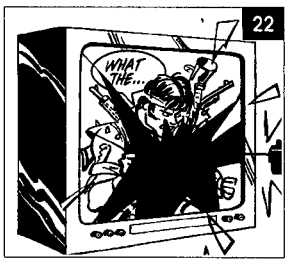

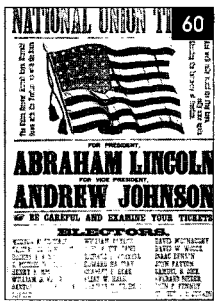

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Lack of Conviction

By Virginia I. Postrel

The culture of victimhood enters the jury room.

AMERICANS ARE WORRIED—AND increasingly angry—about violent crime. They want more prosecutions and tougher sentences. They demand capital punishment for murder and more cops on the street. "The attitude of ordinary people indeed is essentially vindictive: They desire revenge," writes Paul Johnson in *The Wall Street Journal.*

That's the story you get over and over, in magazine cover features and in newspaper headlines, in made-for-TV movies and in campaign commercials, in opinion articles and in television news specials. There is truth to the story. Americans are scared, and they are angry. They do want tougher laws. But only in the abstract.

Put 12 ordinary people in a courtroom, present them with a real, live defendant, give the defendant a good lawyer, and those ordinary Americans will forgive just about anything. "Beyond a reasonable doubt" has been superseded by "beyond any shred of an excuse."

When a jury acquitted the cops who beat Rodney King, critics blamed racism. But the jury seemed swayed less by race than by the argument that police work is risky, that the police stand as the "thin blue line" between law-abiding citizens and criminals, that King's behavior was frightening. The police, the jury reckoned, had a good excuse.

When another jury acquitted four defendants of all serious charges in connection with the savage beatings of Reginald Denny and others, critics said the jurors were afraid of another riot. What else would explain their decision that smashing someone's head with a brick constitutes neither attempted murder nor felony mayhem? But the jury seemed swayed less by fear than by the argument that the defendants were caught up in the moment, that they'd lost their heads in mob violence, that under the circumstances, the attacks were understandable. The defendants, the jury reckoned, had a good excuse.

Those were politically and racially charged trials, and they were analyzed as such. But they weren't, it seems, unique. Lyle and Erik Menendez plotted and schemed and blew away their rich parents with shotguns. There was nothing political about that act; it had no racial significance. Yet the Menendez brothers' entire trial has been about whether they had a real excuse, about whether their parents abused them and therefore deserved to die. At this writing, Lyle's jury has been out for 22 days. Erik's has deadlocked, and the judge has declared a mistrial. It looks as though someone, at least, reckoned Lyle and Erik Menendez had a good excuse.

In Virginia, Lorena Bobbitt is on trial, with cheering supporters lining the walkway to the courtroom. We used to see cutting off genitals as the ultimate sign of barbarity, whether documented in Amnesty International reports or in the history of medieval tortures or American lynching. Now it makes you a heroine, at least if you have a good excuse. The central issue in Bobbitt's trial, as in the Menendez brothers', is whether her excuse is true, not whether it is valid, not whether her act deserves punishment.

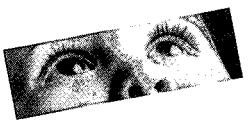
COMMUNITARIANS LIKE TO POINT TO JURY duty as proof that Americans want rights without responsibilities—the right to a jury trial without the responsibility of serving on a jury. But that's mostly nonsense. If Americans are shirking their responsibilities toward jury service, they aren't doing it by not showing up.

After two weeks on jury duty, including five actual days waiting around in courthouses and not a single second hearing a case, I've met lots of Americans who would love to serve on a jury. They just don't like the way the system treats them as chattel whose time is worth nothing. They start off enthusiastic and get worn down by the waiting. If you're not actually going to be put on a jury, many people reason, why bother to waste your time hanging out in jury rooms? (Victims and witnesses get the same abusive treatment, with no two-week time limit.)

The communitarians forget that you don't exhibit "responsibility" by complying with a court order backed by criminal penalties. Responsibility doesn't exist without choice. And it is the choices juries make that are disturbing. Juries are shirking their responsibility to make moral judgments. It is easier to make excuses.

We have come to the logical extension of the politics of victimhood, a politics that pervades not only high-brow opinion magazines and academic seminars but also the talk shows and advice columns that reflect and direct mass opinion. Bombard ordinary Americans with the notion that everyone is a victim, and a lot of people will start to believe it. The implication of universal victimhood is universal innocence. No one is guilty, no matter how heinous the crime.

And to fundamentally alter the criminal justice system, it isn't even necessary for everyone—or even most people—to believe in universal victimhood, only for the concept to be pervasive. On a criminal jury, you don't need a majority; you need unanimity. A good defense lawyer will screen out potential jurors obviously willing to make moral judgments. The dynamics of the jury room, and of American culture, will take care of the rest. Portia teaches mercy, Perry Mason



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innocence. *Twelve Angry Men* said nothing about holding out for conviction.

Paradoxically, the only crimes not subject to the victimhood defense are those that have no victims. If you're carrying illegal drugs, it doesn't matter if you were an abused child or a member of an oppressed racial group. You can't argue that the drugs deserved to be used or that you had a good reason for taking them. No sympathy is allowed. The drugs speak for themselves. Case closed.

Many people who oppose drug laws argue for giving juries explicit discretion to ignore them. They say that juries used to be considered judges not merely of the facts but also of the law, that juries can and should have the power to deem laws too odious to enforce.

I am sympathetic to this position and certainly to its goal of curtailing the punishment of consensual acts. But encouraging jurors to rewrite the laws is wrong. Justice requires objectivity. It entails a promise that everyone is equal before the law, that a defendant's sob story or a victim's obnoxious personality won't determine the outcome of a case. It demands that juries decide not with their hearts but with their minds. Binding juries to honor the law—as the judge in the Menendez trial did when he told jurors that the evidence precluded acquittal—makes it more likely that jurors will fulfill that responsibility. It helps jurors check their prejudices and emotions; it forces them to give reasons for their decisions.

But it is not a fail-safe device, only a help. A government of laws cannot stand against a people who can see only victims, against jurors who believe neither in criminals' responsibility nor in their own. Once, runaway juries driven by rage gave us legal lynching, a complement to the illegal kind. They would not reason, so they could find no reasonable doubt.

Today, their successors feel not rage but pity, not hatred but empathy. They, too, do not reason, but neither do they doubt. They can look at proof of guilt and still find innocence—innocence in the victimhood of the victimizer.

Many of the ordinary people who make up juries desire neither justice nor revenge. They desire absolution, the obliteration of all responsibility. We have created a culture of excuse, and it has conquered our courtrooms—not by judicial fiat but by the most democratic of means. Our juries have gone soft on crime.

Something for Nothing

By Rick Henderson

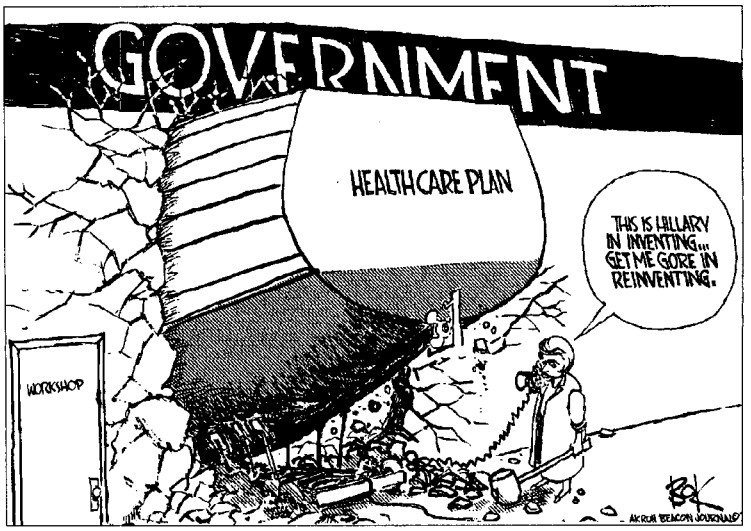
ClintonCare will fail because it's no New Democrat plan.

A NOVEMBER 27 *NATIONAL JOURNAL* story describes how the Clinton administration has hijacked the Democratic National Committee. Under chairman David Wilhelm, the DNC has doubled its staff, from nearly 100 when Ron Brown took over in 1989 to more than 200 today. And while the party raised $16.4 million in the first six months of 1993—a record for a non-presidential-election year—it spent $18.9 million over the same period. As it prepares for mid-term congressional elections, the DNC has less than $1 million in the bank; the Republicans expect to have $6 million cash on hand and no debts.

One House Democratic leadership aide tells *National Journal*, "The perception [on Capitol Hill] is that [the DNC is] a lobbying operation to get the President's agenda through. That is important to us, but we've...got to turn our attention to reelecting Democrats."

Bill Clinton has put himself in a jam. It's hard to claim a mandate to gov-

ern when you win with less than 50 percent of the popular vote. The president has compounded his troubles by downplaying the very issues that won him critical states in 1992. Clinton may be unintentionally doing the country a big favor: His obsession with nationalizing health care at the expense of everything else may make it impossible to pass sweeping health-care reforms.



In 1992, Democrats were savvy enough to recognize that neither a Mondale-style tax-and-spender nor a technocrat in the Dukakis mold could defeat George Bush, no matter how little Bush deserved a second term. Clinton sealed his party's nomination by constantly asserting he was a different kind of Democrat. When he promised "no more something for nothing," and argued that public policies shouldn't punish "people who work hard and play by the rules," swing voters agreed. Every time Clinton's fitful campaign faltered, he rejuvenated it by talking about his "New Covenant" (remember that?), middle-class tax cuts, welfare reform, or community policing.

Since the election, the popular items on his campaign agenda have languished. Consider the crime bills awaiting resolution on Capitol Hill. Both the House and Senate versions contain troublesome components—ill-conceived gun-control measures, "federalization" of crimes that are better prosecuted locally, unnecessary extensions of the death penalty. Other parts of the bills, including money to build prisons and put more cops on the street, could take a bite out of crime.

But all of the ingredients—the good and the bad—came from Congress. Except for gun control, and touchy-feely speeches about addressing the "root causes" of criminal behavior, Clinton has been silent about specific policies that could make neighborhoods safer. He didn't even fight for his campaign pledge to put an extra 100,000 cops on the street; Sen. John Kerry (D-Mass.) had to stick it in the Senate version of the bill.

Then there's welfare reform. Clinton's promise to "end welfare as we know it" excited centrist voters and policy intellectuals. And it has encouraged reformers to propose experiments in Wisconsin, Oregon, New Jersey, and other states, led to concrete proposals from Republicans on Capitol Hill, and earned the intense scrutiny of Senate Finance Committee Chairman Daniel Patrick Moynihan (D-N.Y.), who has decried welfare dependency for a generation.

But Clinton advisers Bruce Reed and Ira Magaziner now say the administration won't try to pass welfare reform this year. Forget bipartisan support and solid public backing for sweeping changes in poverty programs. The White House will concentrate exclusively on passing ClintonCare.

THE CLINTONITES WILL NEED A LOT OF help. In late September, just after the president outlined his plan to Congress, a CNN/*USA Today* poll found 59 percent of Americans favored the plan and 33 percent opposed it. In November, support had fallen to 52 percent in favor, 41 percent against.

By December 2, a CNN/*Time* poll showed that only 9 percent of the respondents wanted Congress to pass the plan without changes; another 33 percent said pass it with minor alterations; 22 percent said make major changes first; and 25 percent urged rejecting the plan altogether. By a margin of 47 percent to 42 percent, Americans preferred major changes or nothing to ClintonCare, even with slight modifications.

One reason the president's health plan may be in trouble: It embodies "something for nothing," the antithesis of Bill Clinton's campaign. ClintonCare would require everyone to purchase health coverage initially, but the plan also says that once enrolled, you can never lose coverage, even when you don't pay your premiums.

It would force prospective physicians to enter general practice rather than the specialties they (and their patients) may prefer. And if a health plan inside one of the regional alliances goes broke, ClintonCare requires doctors to keep providing medical services without pay.

Candidate Clinton said, "People don't want some top-down bureaucracy telling them what to do." President Clinton has decided to rest his fortunes on the success of his health plan, which would establish the biggest bureaucracy in U.S. history. As Americans realize that the man occupying the White House isn't the one they elected, Bill Clinton will have plenty of trouble enacting his unhealthy medical reforms. ®

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And to Chip Bok, a regular REASON cartoonist, for winning "Best Editorial Cartoon" awards from both the National Press Foundation and the Free Press Association in 1993.

Unnatural Acts

Rick Henderson's article on the increasing size and scope of the government's environmental-crimes enforcement program ("Crimes Against Nature," Dec.) shed much-needed light on an important subject. He neglected, however, to point out how this enforcement explosion is subverting constitutionally protected property rights.

Criminal statutes for environmental offenses were meant to stop midnight dumpers and others who threaten the public health. Overzealous prosecutors are instead prosecuting people for acts protected by the Fifth Amendment. In *Lucas v. South Carolina Coastal Council*, the U.S. Supreme Court ruled that an owner has the right to use his property so long as the public is not harmed. Not only do many recent wetlands prosecutions fail to prove any harm to the public or the environment, they utterly ignore the constitutional rights of an owner to use his property.

Courts have long recognized the Bill of Rights as an affirmative limit on criminal law. Where purportedly criminal activity is protected by the Bill of Rights, a prosecution for engaging in that constitutionally protected activity must fail. Under the First Amendment, one cannot be prosecuted for engaging in constitutionally protected free speech without a permit, even where the law purports to require one. The same should be true under the Fifth Amendment for permit requirements regarding the constitutionally protected use of private property.

In the case of wetlands violations, people are being prosecuted and sent to jail for using their property without a permit. But the government could not have constitutionally forbidden the wetlands disturbance without paying just compensation. Bill Ellen never sought a permit to fill any wetlands, because he never intended to disturb any wetlands, and the purported wetlands that he did disturb were so minimal and marginal that no impact of any kind could be shown by the government. In the case of Ocie and Carey Mills, a father and son building a family home in Florida who were jailed for 21 months for wetlands violations on their privately owned lots, a subsequent court ruled that the "wetland" they disturbed probably was not a wetland at all.

In short, the government is now in the business of sending people to jail for harming nothing. The theory under which these cases are prosecuted—a vague notion about the rights of marshes and trees—leads to the violation of the constitutional rights of humans.

Nancie G. Marzulla
President and Chief Legal Counsel
Defenders of Property Rights
Washington, DC

Your most interesting and persuasive article on the absurdity of certain EPA actions raises a question: Is it likely that someone will go to prison for five years for clearing brush from irrigation ditches? I cannot imagine that the EPA fanatics are that fanatical.

An article in the November issue of *The Washington Monthly* suggests that the story behind the Bill Ellen case is different from the one described by Rick Henderson. If the facts are as set forth in Mr. Henderson's article, the EPA is acting outrageously. But if the facts are as set forth in *The Washington Monthly*, the EPA and the jury may not be out of line.

Lloyd McAulay
New York, NY

Rick Henderson does your readers a great disservice by falsely equating environmental offenses with vice offenses. The essence of a true vice offense is that such harm as flows from its commission inures only to the detriment of the involved actors (as, for example, the risk of sexually transmitted disease from prostitution inures only to the detriment of those involved in the prostitution). In such cases, harm to third parties results from the prohibition of the vice, not from its indulgence (as, for example, the violent crime that results from the illegality of various drugs).

Henderson says that "[l]ike laws against drug use or prostitution, environmental prosecutions are meant not to protect persons or property but to send a message about values." Environmental laws are *not* like laws against drug use or prostitution. Environmental laws are designed to protect persons not involved in the prohibited conduct from the harm resulting from that conduct. Thus, for example, laws regulating the disposal of hazardous wastes serve to protect those not involved in such disposal from being poisoned by their own water supplies.

I have no quarrel with Henderson's arguments that the punishments meted out to environmental offenders are often excessive, that a criminal conviction not based on the defendant's criminal intent is a violation of basic civil liberties, and that many environmental statutes are vague to the point of incomprehensibility. But I question his claim that environmental offenses are best dealt with under the "body of law dealing with...crimes that are planned but not consummated."

The law dealing with "inchoate" crimes requires a very specific kind of intent. While a murder charge can be founded upon an intent to inflict bodily harm or an intent to commit a felony, for example, the charge of attempted murder can be founded only upon a *specific* intent to kill. Under such a legal regime, a deliberate polluter could escape liability by claiming that he dumped toxins into a water supply not in an attempt to poison that supply but merely with reckless disregard as to whether poisoning would result.

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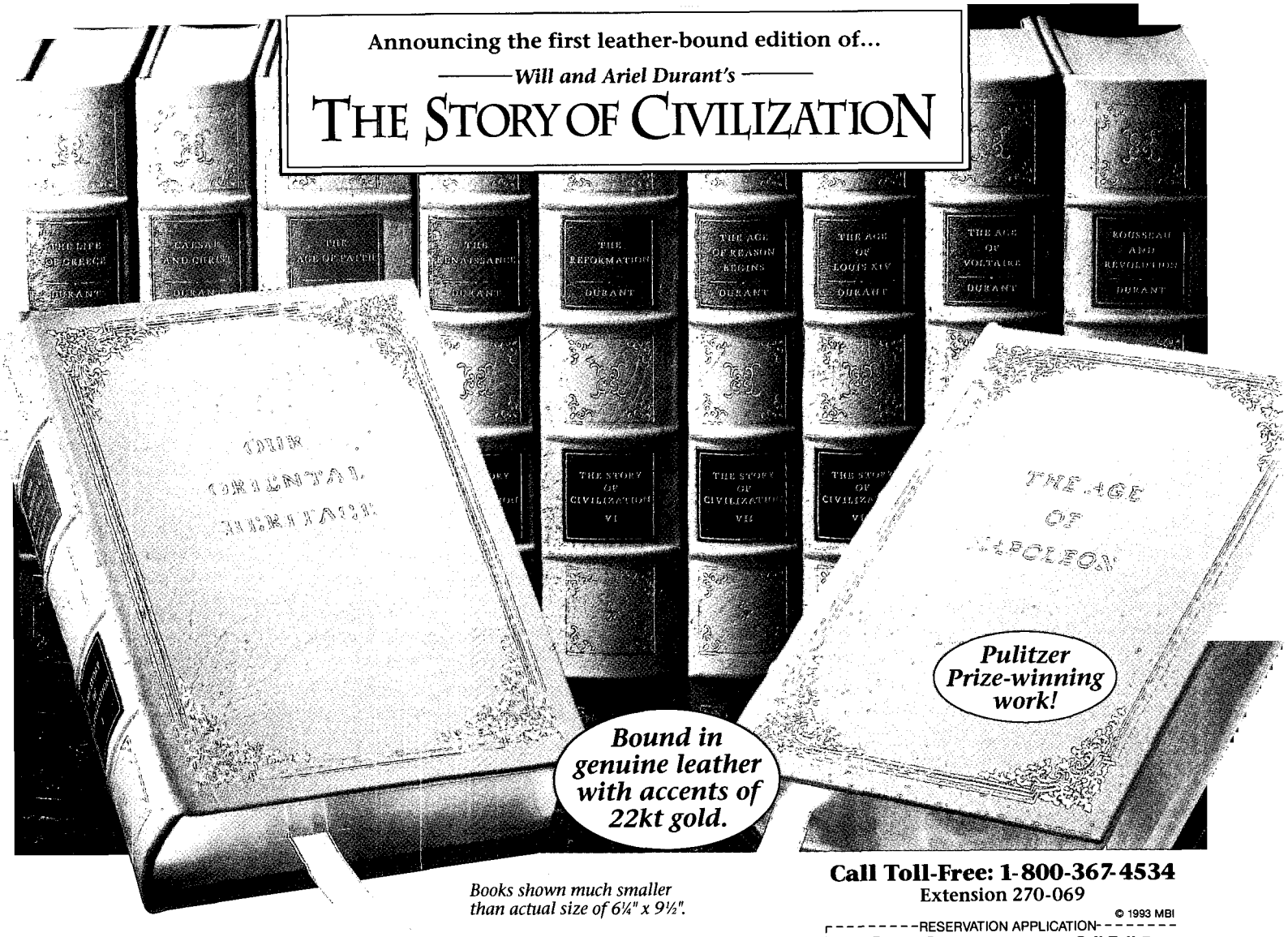

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can, as Henderson says, deal with environmental threats, but not in the manner he suggests. He is correct in observing that "[t]he traditional criminal code treats actions that cause different amounts of harm in different ways," but he neglects to mention that traditional criminal codes penalize behavior that poses risks of danger to others even when no one is actually harmed. Pollution, whether a particular instance of it causes observable harm or not, is properly punishable for the same good reasons that it is illegal to discharge a firearm in an urban area, even if one ends up causing no injury or damage: The risk of harm is great and the consequences are often irremediable.

Andrew Dulaney
San Francisco, CA

Mr. Henderson replies: Mr. McAulay questions the likelihood that Nevada rancher Wayne Hage would spend five years in prison for clearing irrigation ditches on his land. At the time I wrote the story, Hage was under indictment for violations of the Clean Water Act. Federal prosecutors took the case very seriously indeed. Mr. Hage has been a thorn in the side of land-management bureaucrats. He is suing the federal government for seizing some 2,000 head of cattle that wandered near the edge of the unfenced boundary of his ranch. As long as vague, punitive laws are on the books, persons like Wayne Hage can be selectively targeted for prosecution. *The National Law Journal*'s survey of corporate general counsels underscores my arguments. Only 30 percent of the attorneys questioned believed full compliance with environmental laws is even *possible*. When everyone is guilty, no one is safe.

We received several letters asking about the *Washington Monthly* story Mr. McAulay cites. In it, author Bill Gifford uses the Bill Ellen case as one example of what he considers shoddy reporting and unbridled partisanship by *The Wall Street Journal*'s editorial page.

The *Washington Monthly* story, however, has its own problems. For example, Gifford says Ellen illegally ordered workers to dump dirt in a "duck pond." In fact, the area in question was to become a management office and had been classified as an upland by the U.S. Soil Conservation Service.

Gifford writes, "Ellen had filled or altered close to 1,000 acres." It's not clear how Gifford came up with this number (the entire project covered 3,000 acres). Furthermore, he insinuates, without evidence, that there was something improper about the work. Yet Ellen obtained 38 development permits for the Tudor Farms project; it's no surprise that he "altered" the property.

Mr. Dulaney doesn't get the point of the analogy between environmental crimes and vices. I consider vices to be those actions that cause no harm to others but still carry criminal penalties. I do not argue that environmental laws should not exist. In most cases, however, fines or other administrative sanctions should be used to punish offenders.

"Midnight dumpers," and other persons who intentionally cause harm to others, may deserve prison terms. I did not deal with those cases, and said so early in the story. Instead, I reported about persons who faced the loss of their liberty because they violated what former Attorney General Thornburgh called "the sanctity of...the earth's environment." Sending people to jail for such offenses indeed conveys a message about values. It does nothing to protect people or their property, the traditional sphere of the criminal law.

As for Mr. Dulaney's contention that environmental crimes should be treated differently from other criminal violations because the "risk of harm is great and the consequences are often irremediable," I agree with Peter Huber—this approach borders on witchcraft.

I thank Nancie Marzulla for her comments.

Do Teachers Learn?

I didn't think anyone was ever going to notice that there isn't much research in a lot of educational "research" ("Why Johnny Can't Teach," Dec.). As a former teacher, I appreciate Jonathan Marshall's comments on Project STAR and Henry Levin's work. Why don't educators pick up on these methods? In real science, others would try to repeat the work.

Mary R. Kahn
Morgan Hill, CA

As a recent graduate of a master's degree program in education, I can identify with Jonathan Marshall's article. Learning to evaluate the quality of research was not a goal of the program in which I participated. No student was required to conduct empirical studies or to take statistics. Most teachers who cited research seemed to do so without concern for its quality, and reliable and accepted results were rare.

I was dismayed, however, to see Mr. Marshall's praise of "cooperative education." This system of learning could roughly be described as educational Marxism: "from each according to his ability, to each according to his need." In it purer forms, cooperative education involves assigning learning tasks to small groups of students with varying academic ability. The members of each group are expected to solve a problem or learn a skill and make sure all other members of the group understand the solution or skill.

In a 1990 article published in the *Journal for the Education of the Gifted*, Ann Robinson suggests that regular use of cooperative education exploits talented students. With regard to gifted children, Ms. Robinson criticizes the research on cooperative education for being weak and over-generalized. Robert Slavin, whom Mr. Marshall applauds, is among the researchers whose work she reviewed.

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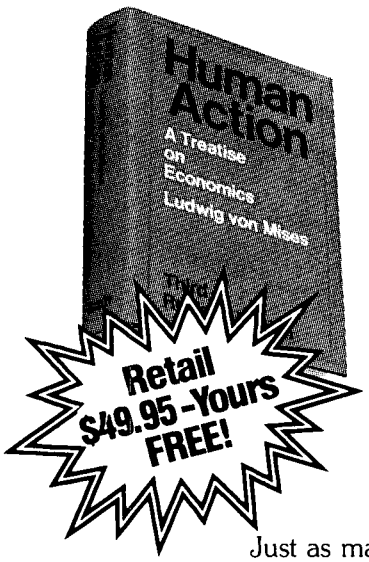

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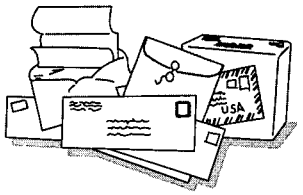

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LETTERS

Cooperative education may be worthwhile in some settings, and its occasional use wouldn't likely be harmful. But as yet another avenue for placing the group's interests above the individual's, it should be viewed with skepticism.

Nancy Littlefield
Oley, PA

Jonathan Marshall is right that much education research is weak and politicized, but that still leaves us with a vast reservoir of good, sensible, and useful material. The 1986 *Handbook of Research on Teaching* from the American Educational Research Association references more than 4,600 researchers in the space of its more than 1,000 densely packed pages. It has much value and little nonsense.

Marshall should look at the stunning gap between the good research that exists and the almost total lack of interest in this research on the part of teachers, school policy makers, and political leaders. In her seminal summary of the great debate on reading instruction, Jeanne Chall said: "Of the many teachers and administrators I talked with, not one ever said that he or she had been influenced to make a change by an article that reported an experiment or that described a finding about the reading process. It seems that research findings, carefully selected for the purpose, serve primarily to back up decisions and commitments already made."

Donald Orlich, whom Marshall quotes, lists 28 citations in support of his well-focused six-page summary—no shortage of worthy research there. The paragraph from which Marshall quotes goes on to state, "We need a national moratorium on reforms so that educators and local policy makers can analyze their own problems." Orlich's recommendation is more useful than Marshall's call for more and costlier national research efforts.

Stanley Wolf
DeLancey, NY

Mr. Marshall replies: Ms. Littlefield's scenario of bright students being victimized by lazy freeloaders in cooperative learning situations is not borne out by numerous, well-controlled studies that document the strong achievement gains from this instructional method. Slower students profit from peer tutoring; quicker students achieve mastery by helping others in the group along. Learning, in other words, is not a zero-sum game. In many well-implemented cooperative learning situations, individuals as well as groups are assessed, discouraging "lazy" students from coasting at the expense of their fellows. And Ms. Littlefield should consider the possibility, admittedly more speculative, that cooperative modes of learning may be more appropriate than purely individualistic ones to the real world of work, which rewards successful teamwork to achieve common objectives.

If Mr. Wolf rechecks my story, he will find that I both decried and analyzed the failure of teachers and administrators to take advantage of what good educational research does exist. But the "vast reservoir" of research Mr. Wolf points to is, in fact, heavily polluted by unreliable work of questionable methodology. The field simply has not adopted sufficiently rigorous standards. To throw more money into bad research would be a terrible waste, but complacency about the adequacy of our knowledge would be equally misguided. Thus Orlich calls for a moratorium on faddish reforms, not on good research.

Prozac Problems

I wish I could be as sanguine about Prozac as is Jacob Sullum in his review of Peter D. Kramer's *Listening to Prozac* (Dec.). About four years ago, my physician prescribed Prozac for non-specific depression. Within days, I was unable to sit still for more than a few minutes; I sweated profusely and had trouble sleeping. Within the week, I was having dreams of suicide. I ceased taking the pills, and these symptoms disappeared.

I realize that my one account is not sufficient to condemn a product that has apparently brought much relief to many. However, Mr. Sullum's article portrays this drug as a panacea. I know from expe-

rience that it is not. I was quite sorry to see him make his portrayal without at least a reference to those who have had experiences such as mine.

Stanley M. Morris
Cortez, NM

Moral Matrix

In his review of James Q. Wilson's book *The Moral Sense*, Loren Lomasky pays considerable attention to the question of whether a "moral sense" is innate or acquired. The arguments against any form of innate ideas are, I believe, conclusive. It seems clear to many of us that a sense of morality is achieved through cognition, by an acknowledgment of causality, especially the causality of volitional thought and action.

Rationally moral behavior is simply that which is necessary to human survival, well-being, and happiness—both solitary and social. And the best ethics is that set of principles which optimizes the attainment of those goals over the course of each individual's life. The very act of attempting to persuade others of certain moral ideas, by Lomasky and the authors he cites, is tacit acknowledgment that such volitional cognition, with respect to morality no less than other concerns, is possible and necessary.

Joseph Curran
Daly City, CA

One of Loren Lomasky's criticisms of James Q. Wilson's book is curiously anatomical: the failure to identify a discrete organ of moral sense. The criticism is unjustified. On page 24 Wilson identifies the limbic area of the brain as the probable seat of the moral sense. More significantly, he specifies the organ metaphorically on page 238, where he refers to the "teachings of the heart."

Wilson uses a wide variety of synonyms for the word *sense* to tell the reader that it is not to be interpreted in the same way as those senses for which there are receptor organs like the eyes, ears, and nose. One is the plural form *senses*. Another is *sentiments*. On page 239 he accepts somebody else's "intuitions" as a possible synonym, and he refers to Aristotle's "natural striving" on page 236. The synonym *predisposition* occurs frequently, and there are various extended phrasal characterizations, as in his reference to "habituation operating on a human nature innately prepared to respond to training."

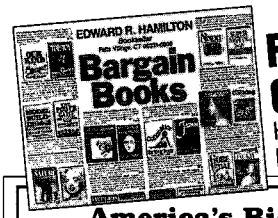
In short, it is perfectly clear that the word *sense* is not used in the sense of sensory organ in this most sensible book. Wilson's point is that we have something other than reason and other than the teachings of our individual cultures that impels us to do good things. The evidence that Wilson adduces for this something won't go away, whatever you call it.

Richard L. Leed
Professor of Linguistics
Cornell University
Ithaca, NY

Corrections: December's Balance Sheet misidentified the home state of Rep. Christopher Shays (R-Conn.).

Due to an editing error, "Onward, Christian Soldiers?" (Jan.) misidentified Charlotte Allen's religious affiliation. She is a Catholic.

Clarification: In "Ambush at Ruby Ridge" (Oct.), Alan Bock reported that deputy U.S. marshals carried "silenced 9-mm M-16 machine guns with laser scopes" during the siege of Randy Weaver's property. In a subsequent letter (Jan.), a reader said "there is no such weapon. The M-16 rifle...fires a 5.56-mm round." That letter prompted numerous responses from readers who noted that Colt makes a 9-mm gun that is similar to the M-16. The U.S. Marshals Service refuses to discuss its weaponry (other than its standard-issue sidearm). But Don Hacklander of San Diego Police Equipment says the service uses the Colt SMG, a 9-mm machine gun that resembles a short version of the M-16. It can be used with a laser scope and a suppressor (a.k.a. a silencer). We hope this settles the matter.



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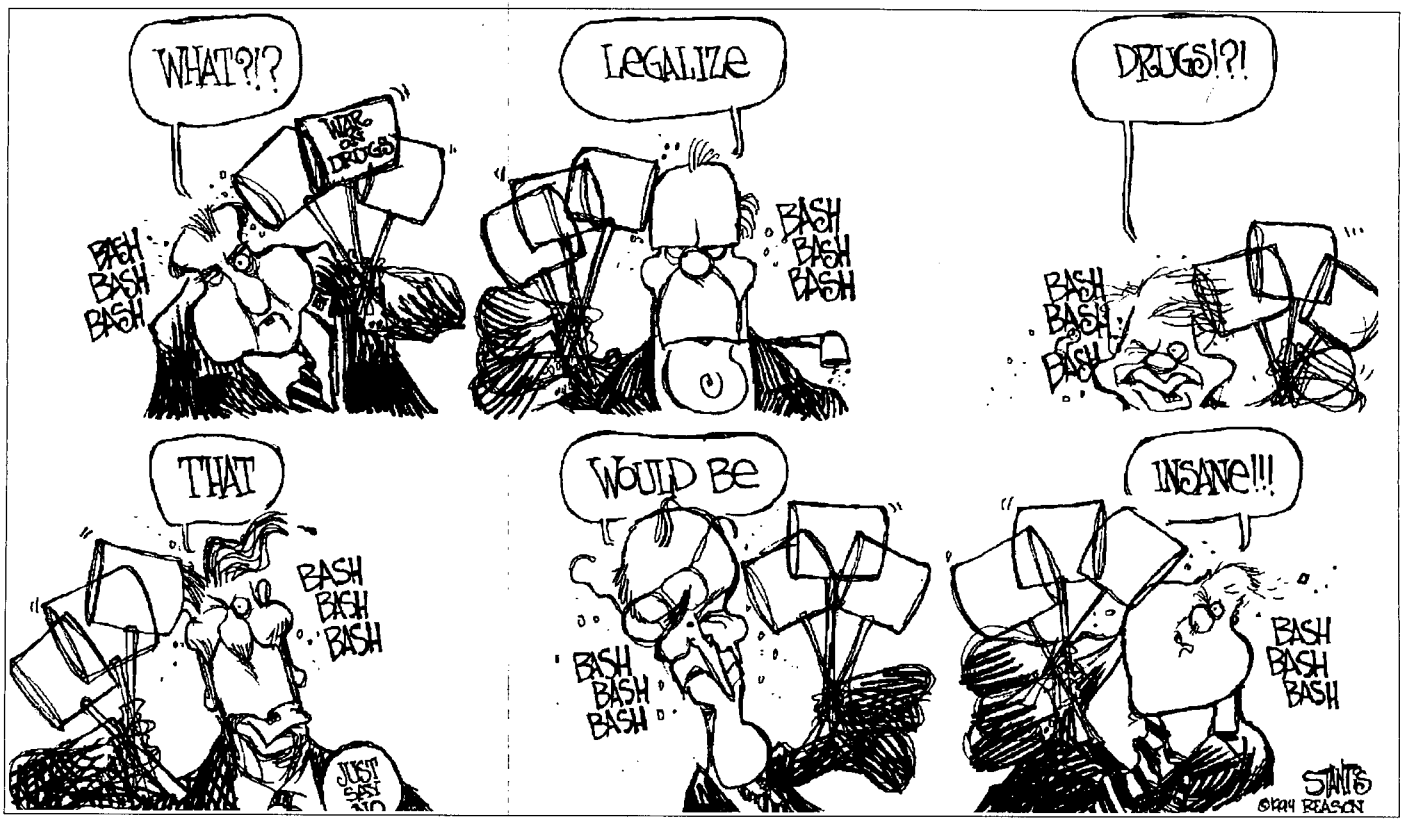

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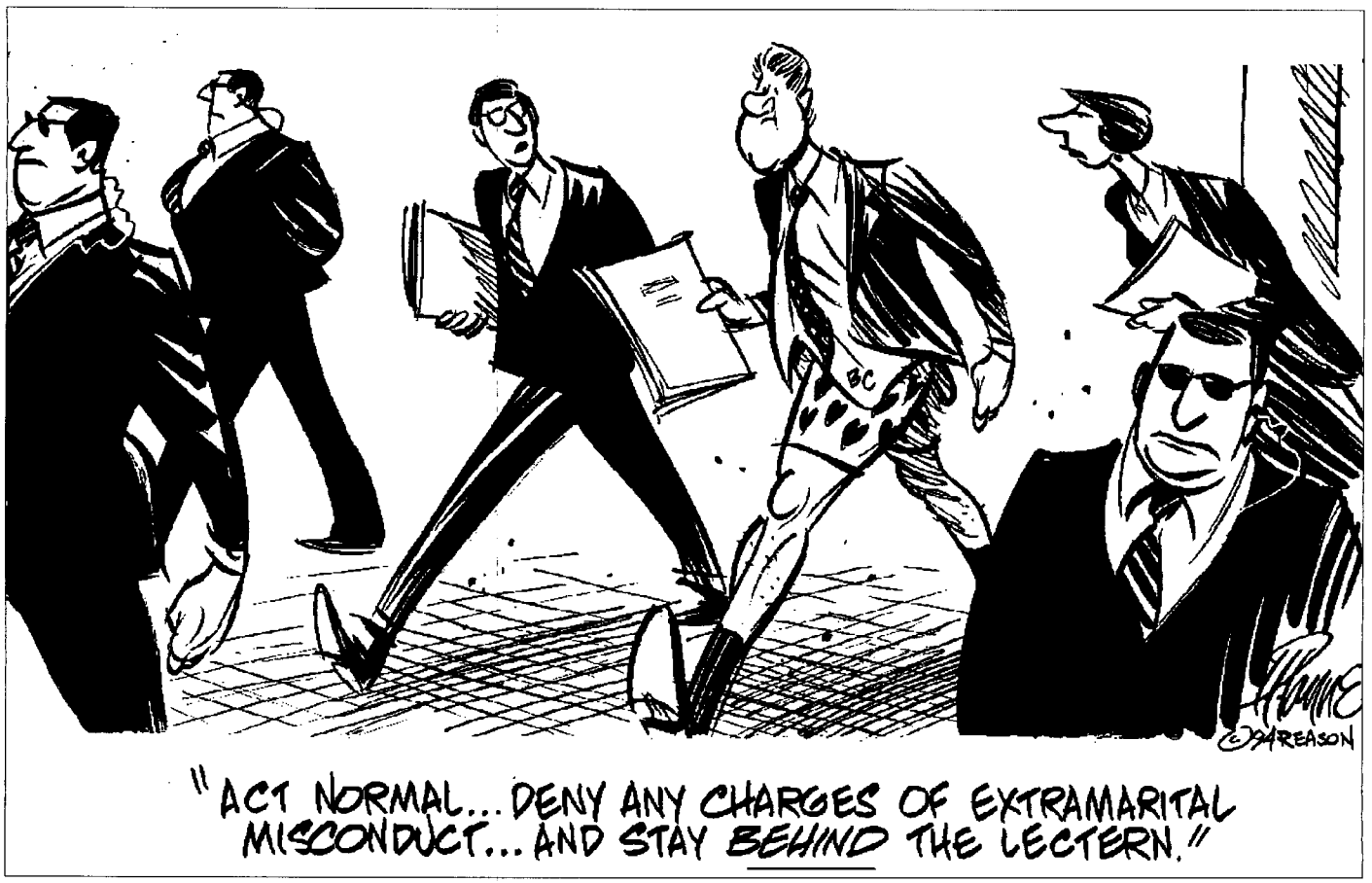

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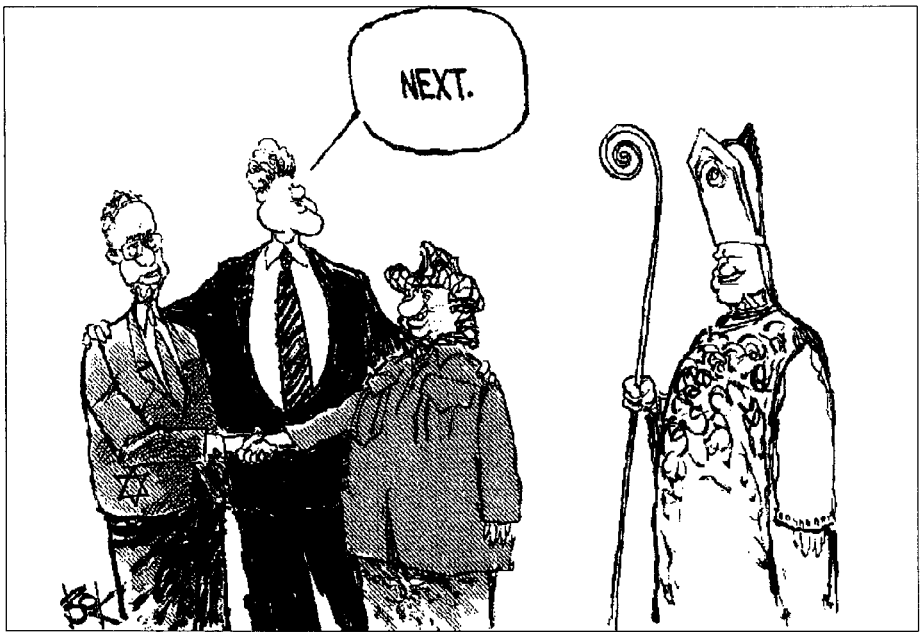

■ **Longmont, Colorado, is a kinder, gentler** place these days. City Council members have voted to replace street signs reading "Dead End" with ones that read "No Outlet." Some people complained the existing signs were too gloomy.

■ **In California, Gov. Pete Wilson has again** shown that he isn't afraid to take a stand on tough issues. He's come out in support of a law that would deny conjugal visits to inmates convicted of child molestation.

■ **Following complaints from students about** being exposed to sexually graphic material in classes, the University of Iowa Board of Regents has imposed a policy requiring teachers to tell students if their courses will include such material. University teachers have reacted predictably to this policy. They have termed it "censorship" and said that it abridges their academic freedom. And some members of the faculty have accused the regents of homophobia. It seems the films that prompted the complaints showed men having sex with each other.

■ **Want to spot an unmarked police car in** Tampa, Florida? Look for one sporting an expired license plate. The city police department forgot to renew the tags on its unmarked cars, including the one assigned to the chief. Another tip for spotting the cars: Look for a ticket on the windshield. Other local law-enforcement agencies have issued a number of citations to the Tampa police for the expired tags.

■ **In Indian Creek, Florida, the City Council** has banned several breeds of dogs because of their tendency to bark. Now forbidden are American Staffordshire terriers, Staffordshire bull terriers, German shepherds, Doberman pinschers, Rottweilers, and American pit bull terriers. Unfortunately, Chihuahuas and poodles are still legal.

■ **Neither Nasr Abu Zeid nor his wife wants a** divorce. But that isn't stopping divorce proceedings for the two in Cairo. Muslim fundamentalists have sued to end the marriage, claiming that Abu Zeid is a heretic and thus cannot be married to a Muslim woman. The fundamentalists say Abu Zeid should consider himself lucky that they are only trying to end his marriage and not his life.

■ **In Concord, New Hampshire, Tiffany Tropp** complained when she heard some classmates singing Christmas songs in the halls of her junior high school. Tiffany, who is Jewish, told the principal it made her feel uncomfortable, and he told the students to stop. That's when Tiffany's troubles started. She claims that other students teased her and that one classmate told her that Christmas is about peace and love, then shoved her into a locker.

■ **In France, the courts have ordered Yves** St. Laurent to stop marketing a perfume called Champagne. A 1990 law forbids using the name *champagne* for anything other than wine produced in the Champagne region of France.

■ **Big B Inc., which operates the Drugs for** Less chain, is under fire from civil-rights groups. Several months ago, noticing mounting losses from shoplifting, the chain began putting anti-theft tags on the items that its records showed were most likely to be stolen. Among the tagged items are batteries, diapers, condoms, and hair-care products. But black leaders say that the store discriminated against minorities because the tags were used on items often purchased by blacks.

■ **If you're going to San Francisco, be sure to** wear some flowers in your hair. But if you're going to Berkeley, forget about strings. The city is cracking down on street artist Phillip Roundtree because he has been charging people to tie colored and beaded strings in their hair. That's vending without a license and practicing cosmetology without a license. Roundtree has racked up $11,320 in fines.

■ **Wear dentures, go to jail. That, says Louis** Clark, seems to be the law in Oakland, California. Clark is suing the city, claiming that officers hit and choked him during a drug arrest. Seems the officers thought his denture adhesive was cocaine. No charges were filed, but Clark says he spent three days in jail and his truck, in which he was sitting at the time of the arrest, was stolen because officers failed to lock it. "All I did was put my bottle of denture adhesive on the dashboard and slap in my lower teeth," Clark said.

—Charles Oliver

CHIP BOK

Rival Reality

The advantages of school competition

By Nick Gillespie

Private schools help improve public schools through competition.

"THE EXPERIENCE OF COLLEGES and universities shows that competition can force achievement down rather than improving it," writes Albert Shanker, president of the American Federation of Teachers, in one of his widely published advertorials. "There is little doubt that competition would force [elementary and secondary] schools to be sensitive to what customers want, but there's very little evidence that what they want is a rigorous education."

A recent study by a Massachusetts Institute of Technology Ph.D. candidate in economics, however, suggests that Shanker is wrong. In "Do Private Schools Provide Competition for Public Schools?," Caroline Minter Hoxby finds that "greater private school competitiveness significantly raises the quality of public schools, as measured by the educational attainment, wages, and high school graduation rates of public school students."

Using nationwide data on public and Catholic high schools, and controlling for variables such as religion, population homogeneity, parents' education, and household income, Hoxby estimates that "a 10 percentage point increase in the share of county[wide] secondary enrollment in Catholic schools improves public school students' educational attainment by .37 years and wages by 3 percent."

Hoxby contends that, in areas where private schools are popular alternatives, public schools must raise quality to maintain their enrollment. She presents some evidence that public schools react to competition with private schools by paying higher teacher salaries and spending more per pupil. But her statistical analysis finds that the increase in quality is accomplished mostly by means that don't require increased spending. She speculates that "it might be difficult to raise property tax rates when public school enrollment is falling."

Hoxby's results are significant because there is little research on the question of how competition affects public schools. "This paper presents firm evidence that public-school students benefit from private-school competition," she says. ®

You Can't Make Me!

The cost of unfunded mandates

By Rick Henderson

Federal spending soaks up nearly 24 percent of the nation's income. That doesn't include the potential costs of ClintonCare. And the costs of federal programs exceed mere line-items on a budget. The feds can conceal the regulatory costs of such laws as the Clean Water Act by forcing state and local governments to come up with the money to pay for enforcement. The National Association of Towns and Townships estimates that these "unfunded mandates" cost taxpayers in cities almost $6.5 billion in fiscal year 1993. And unfunded mandates will get more expensive, costing nearly $54 billion over the next five years.

Estimated Costs of Unfunded Federal Mandates to Cities
(Hours and Costs in Thousands)

Mandates	Fiscal Year 1993 Staff Hours*	Staff Costs	Direct/Indirect Budget Costs	Total Costs	FY 94–98 Projected Total Costs
Underground Storage Tank Regulations	862	23,393	137,755	161,148	1,040,627
Clean Water Act /Wetlands	57,378	1,185,549	2,426,984	3,612,533	29,303,379
Clean Air Act	12,138	195,526	208,294	403,820	3,651,550
Solid Waste Disposal/RCRA	9,680	173,384	708,191	881,575	5,475,968
Safe Drinking Water Act	4,444	94,549	467,783	562,332	8,644,145
Asbestos (AHERA)	898	19,554	109,754	129,308	746,828
Lead-Based Paint	374	7,875	110,342	118,217	1,628,228
Endangered Species	252	6,934	30,024	36,958	189,488
Americans with Disabilities Act	4,701	114,935	240,746	355,681	2,195,808
Fair Labor Standards Act**	1,227	22,765	189,358	212,123	1,121,524
TOTAL	**91,954**	**1,844,464**	**4,629,231**	**6,473,695**	**53,997,545**

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Balance Sheet

By Rick Henderson

Assets

Class Act. Privatization reaches the headquarters of the welfare state. D.C. School Superintendent Franklin Smith plans to turn over as many as 15 of D.C.'s 165 schools to private managers this fall. Smith also plans to convert other D.C. schools to "charter schools," freeing them from bureaucratic controls. And the District will hire a private firm to tutor high-school students who read below eighth-grade level.

Private Exchange. "Infrastructure investment" is more than a catch phrase in Eastern Europe. Baby Bell Ameritech and Germany's Deutsche Bundepost Telekom buy 30 percent of Hungary's state phone company. MagyarCom will offer fiber optics and wireless phones. Next in line for Western investment: the state phone monopolies in the Czech Republic and in Poland.

Peace Talk. In a speech before an international drug-policy conference, Colombian Attorney General Gustavo de Greiff Restrepo calls the drug war "a lost battle." Citing drug-lord profits and drug-related crimes, he says, "It is a delusion to think that jailing or killing major traffickers will [reduce the amount of] drugs" in the market. "In the end," says de Greiff, "the only solution is legalization." Joycelyn Elders, you're not alone.

Called Off. Don't worry about getting cancer from your cellular phone. (See "Fear of Phoning," June.) A study sponsored by the National Institutes of Health shows that the amount of radiation generated by cellular telephones is one-fourth the level considered safe by the American National Standards Institute. Tell your friends and family.

Liabilities

Bushwhacked. Forget ClintonCare—George Bush's Americans with Disabilities Act could make health care a civil right. The Department of Justice claims that the ADA makes it illegal to prevent disabled employees from tapping into pension funds. Similarly, the ADA may prevent health insurers from excluding persons with pre-existing conditions. National health insurance or trial lawyers' bonanza: You make the call.

Rate Crime. The Postal Service tries to extend its monopoly beyond first-class mail. Postal inspectors sift through the mailing records of Equifax and other corporations that use such private couriers as Federal Express. *The New York Times* reports the Postal Service is actually billing companies that use private carriers to send letters not deemed "urgent" by Uncle Snail.

Cable Cut. Self-described civil libertarian Sen. Paul Simon continues to test the limits of the dictionary definition of *censor*. He pressures TBS, HBO, Showtime, and Time Warner into rating cable shows for violence. They also agree to an outside monitor who will "review" (and edit?) violent cablecasts. Meanwhile, Simon's legislative director looks longingly north, calling Canada's censorship code "very attractive." There, broadcasters can't air "gratuitous violence" before 9 p.m. Has anyone told the NHL?

Bear Market. Al Gore and Strobe Talbott attribute the resurgence of nationalism in Russia to Boris Yeltsin's failed "shock therapy." Instead, economists Stanley Fischer, Padma Desai, and Jeffrey Sachs blame Yeltsin's half-hearted attempts to restrain inflation and create private markets. Trend spotter Peter Passell suggests that the Clintonites' faith in faceless bureacrats and their uneven support for capital formation may have exacerbated the Russian policy muddle.

The $600-Million Question

California and the EPA disagree about how to upgrade smog checks.

By Rick Henderson

UNIVERSITY OF DENVER CHEMISTRY professor Donald Stedman and his portable pollution-testing device are in the news once again. (See "Going Mobile," Aug./Sept. 1990.) California wants to use his remote sensor, which measures emissions from cars on the road, to supplement periodic tailpipe inspections. But the U.S. Environmental Protection Agency wants to force California to submit the 20 million cars in the Golden State to a much more expensive test.

The Clean Air Act of 1990 required states and regions that violate auto-pollution standards to submit a smog-reduction plan before November 15, 1993. The act doesn't specify what cleanup technologies have to be used, but the EPA is clear about what it will accept. EPA Administrator Carol Browner has demanded that cars be tested and repaired at separate locations. She cites internal EPA research indicating that test-only locations are three times more likely to identify gross polluters than stations that both test and repair cars.

The EPA wants California to replace its 9,600 "smog-check" centers, which are located at neighborhood garages, with about 250 centralized testing sites equipped with dynamometers, a treadmill-like device. The dynamometers would test cars once every two years.

The state wants to upgrade existing smog-check centers with more-accurate tailpipe testing equipment. It would also use remote testing to continuously check cars on the roads. California's Environmental Protection Agency says it would cost less than $150 million to upgrade smog-check centers; it expects to finance remote sensing with fines and registration fees. By contrast, the state says, installing dynamometers would cost $1 billion.

Recent studies by researchers at the Rand Corp. and at the Department of Economics at the University of California, Irvine question the U.S. EPA's contentions. Rand reported that California's current smog checks "perform nearly as well" as dynamometers. The U.C.-Irvine study concluded that dynamometers were slightly more accurate than tailpipe tests but that "the consequences of this difference are not large." Both studies backed California's approach—periodic tailpipe inspections supplemented by ongoing remote tests.

Remote-testing supporters also got a boost from an article published in *Science* on July 2 that confirmed that about 10 percent of the cars on the road cause at least one-half of the carbon-monoxide and hydrocarbon automotive emissions. The article praised remote testing and questioned the need for dynamometers. "In a sense," it said, "the cost of more sophisticated systems of vehicle emissions control...is a subsidy to the relatively small number of vehicles that are responsible for the majority of emissions."

An amendment to the Clean Air Act lets states include on-road testing as part of their smog-reduction plans. Remote testing supporters say that each car ideally should be tested six times a year.

The EPA's interpretation of the amendment, however, requires states to do on-road tests of only 0.5 percent of all the cars in the region each year. And "on-road" testing can include having troopers randomly pull drivers over for a tailpipe test.

Browner has threatened to cut off at least $600 million in California's federal highway funds if the state doesn't adopt her pollution-reduction plan. The state and the U.S. EPA hope to negotiate a settlement.

Meanwhile, state Sen. Tom Hayden (D-Santa Monica) has sued Browner and Gov. Pete Wilson for failing to implement a pollution-reduction plan on schedule. If state and federal negotiators can't work out a settlement before Hayden gets a hearing, the courts will decide where Californians get their smog checks.

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Good Decision

A Supreme Court ruling applies due process to civil forfeiture.

By Rick Henderson

In December, the Supreme Court made it tougher for law-enforcement agents to seize property from innocent owners. (See "Ill-Gotten Gains," August/September 1993) In *U.S. v. James Daniel Good Real Property*, it affirmed the principle that "individual freedom finds tangible expression in property rights."

In January 1985, Hawaii police officers found 89 pounds of marijuana, along with marijuana seeds and hashish, at Good's house. Good was convicted, fined, and sentenced to one year in jail and five years' probation. Four-and-a-half years later, after Good had served his time in state prison, federal agents used a civil-forfeiture proceeding to seize Good's house and his four-acre lot. The agents argued that the property had been used in 1985 to facilitate the commission of a federal drug offense. A U.S. magistrate allowed the property to be seized without notifying Good in advance.

Good filed a claim to have his land and home returned, saying he was denied due process when the government seized his property without first holding a hearing. The Court sided with Good. Writing for the majority, Justice Anthony Kennedy said that forfeiture laws do permit the government to seize personal property—money, cars, or other assets that can be easily disposed of—without a hearing. But before the government can seize real property, such as houses or land, it must give the owner a hearing. In Good's case, he probably would have lost the property anyway, but an innocent owner could prevail at such a hearing, thereby preventing the seizure.

"Although Congress designed the drug forfeiture statute to be a powerful instrument in enforcement of the drug laws," wrote Kennedy, "it did not intend to deprive innocent owners of their property." (Kennedy was joined by Justices Harry Blackmun, John Paul Stevens, David Souter, and Ruth Bader Ginsburg.)

Scott Bullock, an attorney with the Institute for Justice, which filed an amicus brief for Good, says this decision "places a significant limit on [civil] forfeiture." Also, for the first time since the early 1970s, Bullock says, "the Court showed profound respect for private property rights." In his dissent, Chief Justice William Rehnquist warned that the majority may have made it easier for individuals to challenge property seizures in tax cases.

Franchise Fight

Regulation threatens business opportunities for women.

By Elizabeth Larson

JoAnn Shaw started The Coffee Beanery Ltd. with a single store in 1977. Her company now has 125 franchised stores, cafés, carts, and kiosks across the country, and she projects that another 75 outlets will open by the end of the year. Thousands of other women have followed Shaw into the franchising world, which now has a workforce of more than 8 million people. They now own 20 percent of all franchises (up from 3 percent in the early '80s). But proposed federal and state "franchise relationship" laws could make such business opportunities for women difficult to find.

Rep. John LaFalce (D-N.Y.), chairman of the House Committee on Small Business, heads the movement to increase the regulation of franchises at the federal level. "Many [franchise investors] find that they purchased low-paying jobs with few protections or benefits [or] lose everything in fraudulent franchise ventures," he told *Success* magazine. His proposed legislation would restrict the contractual relationships between franchise owners and investors. Among other things, it would require the public disclosure of detailed business information that franchise owners say their competitors could benefit from.

In addition, a December U.S. appeals court ruling in Cincinnati lends support to proposed regulations that would curb franchise owners' ability to cancel or refuse to renew contracts with investors who do not meet company standards.

Research suggests that such restrictions are unnecessary. Studies have consistently found the success rate of franchises to be much higher than that of independent businesses. A 1991 study of franchises conducted by Arthur Andersen and Co. reported that only 3 percent of franchises opened within the previous five years had folded. By comparison, over 60 percent of all new businesses between 1978 and 1988 were dissolved within the first six months of operation.

IFA Chairman Steve Lynn: "It doesn't make sense to have government regulators running our businesses."

Don't Ask Them, They Just Work Here

The number of non-immigrant foreign workers is on the rise.

By Nick Gillespie

FOREIGN WORKERS NOT INTERESTED in permanent residency are becoming increasingly common in the United States. Two-and-a-half years ago, in the face of the private sector's growing need for skilled workers, the federal government eased restrictions on non-immigrant work visas, allowing any company with an office in the United States to sponsor employees from abroad. Under I-129 visas, foreign nationals can live and work here legally for up to six years.

"This [program] is strictly for professional, technical and managerial jobs," says Michael Dougherty of the Department of Labor. Employers filed 55,000 applications during fiscal year 1992, the first of the liberalized policy's operation; that number increased to 75,000 during FY1993. Overall, more than 250,000 foreigners are working under the new provisions (since applications routinely cover more than one job, the total number of workers is greater than the numbers of applications). The leading categories of I-129 workers are physical therapists and computer programmers.

Charles Keely, a Georgetown University demographer, says that the policy is responsive to the global trend toward free trade because it gives employers access to much-needed skilled labor while opening up employment opportunities to foreigners not interested in permanently relocating. He argues that in an international economy moving away from trade barriers, it makes sense that labor, like capital and goods, should also be less restricted in its movements. Use of non-immigrant visas, according to Keely, will continue to grow because they offer a workable alternative to the "outdated mindset that each nation should be a labor autarky." ®

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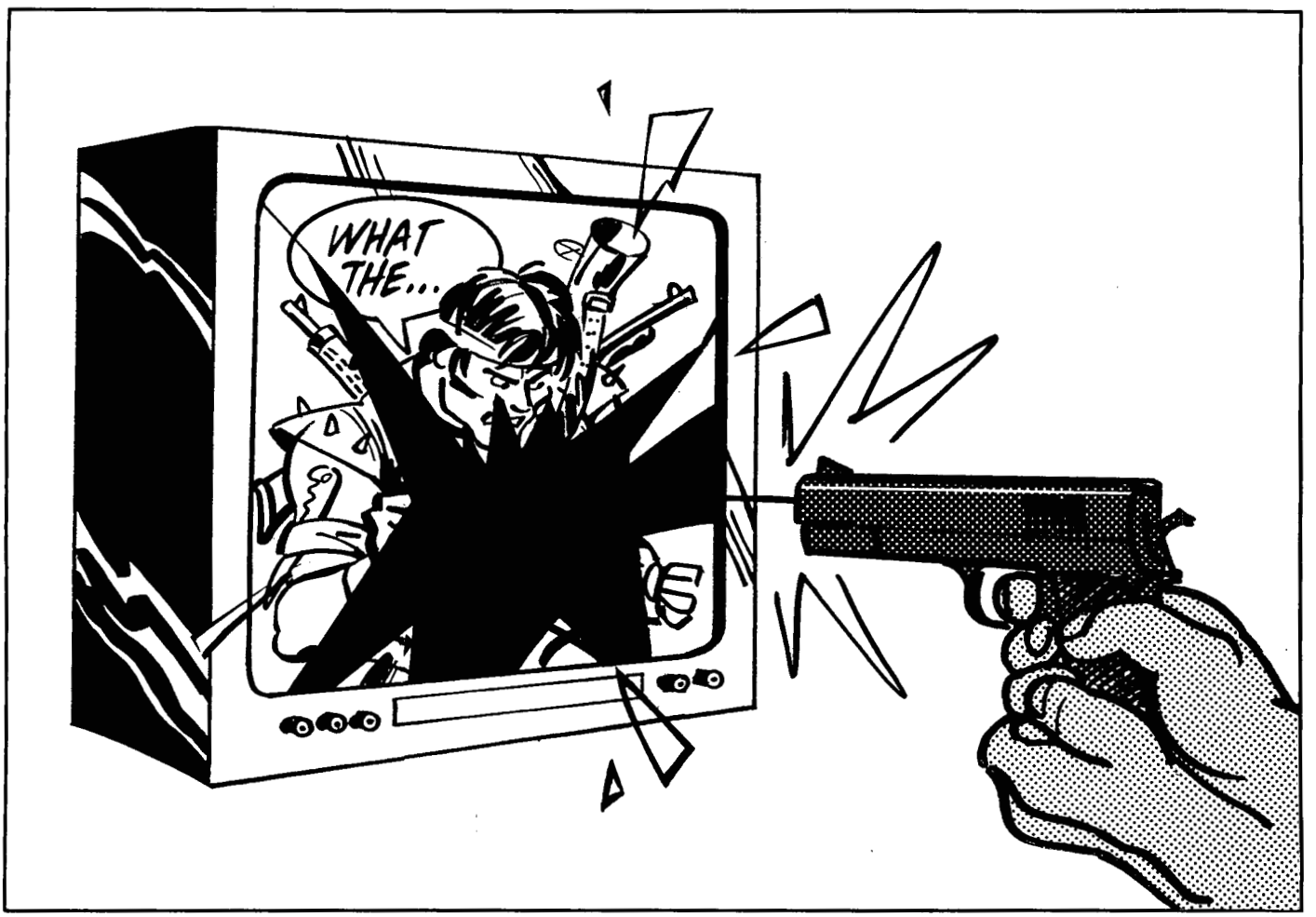

In defense of TV violence

By David Link

As the debate over violence on television plods forward, TV's critics seem to have achieved a decided advantage—they have virtually no opposition. Everybody decries TV violence. Nobody even plays devil's advocate. Some people have tangentially answered the critics by bringing up the First Amendment and censorship. But that's as far as it's gone. No one defends violence on television. And when Americans all line up on one side of an issue, you know something is terribly, terribly wrong.

ARTHUR MATSON

I write fiction. While the focus of my dramatic writing has been theater and movies, like most Americans I watch television. And I think television violence can and should be defended. The problem isn't that people pay too much attention to the violence that appears on television; the problem is they pay too little.

To begin, this is a debate about fiction. We are far too much in love with the real-life violence on television to want to do anything about it. Televised football, boxing, and hockey not only depict violence, they have physical conflict as their primary purpose. And real-life violence dominates TV news: Murder, robbery, drive-by shootings, fires, death, injury accidents on the freeway—all are guaranteed their place on the news whenever they occur, and the more horrendous the circumstances, the more heated the coverage. Whether or not the news actually shows the bullet pass through the body, as occurred earlier this year when the Telemundo network's cameras captured a man murdering his ex-wife at a cemetery, is irrelevant. The thing that draws us to these stories time after time is the fact of violence, violence's explicit or implicit presence. When Phil or Oprah or *60 Minutes* or *PrimeTime Live* tells us about Lorena Bobbitt cutting off her husband's genitals, we lean a little closer to the set and toy with the images being conjured.

The debate over TV violence is a debate about fiction. We are far too much in love with the real-life violence on television to want to do anything about it. Real-life violence dominates TV news. When Phil or Oprah or* 60 Minutes *or* PrimeTime Live *tells us about the Lorena Bobbitt affair, we lean a little closer to the set and toy with the images being conjured.

This is not necessarily bad. It is hard to argue that we shouldn't know or talk about the real violence that occurs in society, its causes, and its consequences. And the drawing power of violent sports speaks for itself. That leaves only fictional violence as the target of this debate. It's much easier to maintain that fiction writers, who by definition make things up, should make up less that includes the depiction of violence.

But what is it everyone's getting so exercised about? Of all the popular dramatic forms, television is by far the least violent. It is not just top-rated comedies like *Roseanne*, *Home Improvement*, *Seinfeld*, or *Coach* that lack violence. Even the hour-long dramas are more like *Dr. Quinn, Medicine Woman* or *Northern Exposure* than *The Terminator*. Even *Murder, She Wrote*, *L.A. Law*, and *Matlock*—which purport to be about criminal behavior—involve no more blood than a cozy Agatha Christie novel. The only violence in television drama is found in the few remaining cop shows, such as *NYPD Blue*, and in movies, whether or not made for television. On the whole, television today is less violent than it has been in more than a quarter of a century.

Television is the subject of the current controversy not because it is the most violent medium but because it is the most vulnerable. In 1978, the Supreme Court held in *FCC v. Pacifica Foundation* that broadcast media that come into the home are not entitled to the same First Amendment protection other art forms enjoy. While the reasoning in that case has undergone some serious erosion in recent years (and, in the thinking of some, wasn't too steady to begin with), it remains the vehicle that Attorney General Janet Reno and others ride in their crusade. And it is a vehicle that is seriously overloaded.

The problem is that we assume televised, fictional violence is the same as the implicit or explicit violence that is the subject of nonfiction news. But there is a critical difference between the two. When television journalists report the latest carjacking or the murder of a 6-year-old, the report is singular, disjointed, one report among others that bear no relation to one another except that for that day someone has decided that they constitute "news." Even on a magazine show such as *20/20*, stories can be given only 10 or 12 minutes of air time, not enough to tell them in a fully developed context. Compare this to fiction, where every event, including every act of violence, is presented as part of a whole story. There is a beginning to the story, a middle to it, and an end.

That fact, almost always left out of this debate, has consequences. When we see a complete story, we are given the material to make judgments about the characters and their actions. Every story has some message, every writer has an intention, and most reasonable fiction writers expect their audiences to make judgments. While such judgments are possible with nonfiction, we also know that a news report is not complete, that the news crew could only capture a certain amount of the story's context for presentation in a restricted forum with next to no time for elaboration.

In the debate over television violence, too many people are ripping fictional acts of violence from the context their stories provide, as though viewers were watching those acts as isolated incidents on the 6 o'clock news. A recent ad by the American Family Association laments that by the time a child has finished elementary school, he or she will have witnessed 8,000 murders and more than 100,000 acts of violence on television. These figures appear to indicate that a lot of fictional acts of violence have appeared on television, at least in the past. (Or that the definition

of "act of violence" is so broad it is almost meaningless, but that's another argument.) What the figures leave out is the context in which those acts occurred.

Consider the argument, brought out like a trusty musket, that fiction too often "glorifies" violence. The truth is that it does not. On television in particular, the overwhelming number of violent acts are committed by someone clearly identifiable as an antagonist. In cases where a protagonist engages in violence, that violence is either legitimized by justice or righteousness, or it is a necessary response to a violent provocation. In every one of those three situations—antagonist violence; protagonist violence to accomplish justice; or protagonist violence in defense of self or others, and to which there is no reasonable alternative—the act falls well short of "glorification."

It is hard even in motion pictures and theater to find examples in which violence is glorified. The touchstone is probably Stanley Kubrick's *A Clockwork Orange*. In that film, the most brutal violence is accompanied by seductive, humorous, or lush music; it is choreographed like a ballet. More important, when the state removes the violent impulses of Alex, the main character, the audience is lured into rooting for the procedure to fail. At the end, when it does fail, there is a sense of relief that Alex has returned to normal.

Television violence is nearly always presented in the conventional moral framework. When an antagonist commits a violent act, it is clear that it is wrong. When a protagonist commits a violent act, it is either morally good, because it accomplishes justice, or it is morally questionable, regrettable but necessary to preserve a greater good.

This turns conventional morality about violence upside-down, the very point of the film. For purposes of the present debate, though, *A Clockwork Orange* illustrates an attitude toward violence that is so rare as to be almost non-existent, especially on television. Television violence is nearly always presented in the conventional moral framework. When an antagonist commits an act of violence, it is clear that it is wrong. When a protagonist commits an act of violence, it is either morally good, because it accomplishes justice, or it is morally questionable, regrettable but, as a defensive act, necessary to preserve some greater good. There are no Alexes on television.

Even on *Beavis and Butt-head*, any fair reading is that their violent acts are committed by vacuous losers, Dead-End Kids for the '90s, and in that context violence is not "glorified" or intended to be a model for behavior. Beavis and Butt-head may be violent, but they are also terminally bored, Samuel Beckett meets Hanna-Barbera. Boredom is their entire context. Compare *Beavis and Butt-head* to *The Itchy & Scratchy Show*, which occasionally appears on *The Simpsons*. *Itchy & Scratchy* is a macabre, ghastly look at the way we used to present violence to children, but its violence is so far over the top that it is impossible to miss the satire. Beavis and Butt-head don't revel in their violence the way Itchy and Scratchy do; they don't revel in anything. That's the point. While *Beavis and Butt-head* involves a more attenuated morality than the obvious satire of *Itchy & Scratchy*, if viewers see any of these characters as role models, they are thoroughly misreading the shows.

Even in the movies shown on television, conventional attitudes about violence predominate. There are a number of movies that are over-full of violence; teen slasher movies and martial arts films are the most obvious examples. But far more often than not, movies do not stray too far from the conventional moral framework that condemns rather than exalts any act of violence. Movies that do violate the expected moral framework about violence, or that come close to the line (*Bad Lieutenant*), will generally not make it to television.

A good example of the violence that does make it to television is the 1987 feature film, *Predator*, starring Arnold Schwarzenegger. It was recently shown on a Sunday afternoon, a time when young children would likely be watching. By any measure, there is a tremendous amount of violence in this film, in which Schwarzenegger is called for duty to rescue a VIP whose plane has gone down in a hostile jungle and winds up having to fend off one of the most disagreeable aliens ever to hit the screen.

While there is far more violence in *Predator* than in *A Clockwork Orange*, Schwarzenegger's film puts violence in a context that cannot be missed. That context, shared with most violent films, is a question: What is the response to the violence in the world? Schwarzenegger's Dutch uses violence reluctantly; he even chastises his co-star, Carl Weathers, who in one scene is too eager to confront violence with violence. But at film's end, it is Dutch against the alien, only one of them will survive, and only the most intentionally perverse viewer would root for the alien. Dutch hews to a reasonably clear moral line about violence, using it either when it will accomplish justice (the script's inciting incident is an attempt to rescue innocent people who went down in the plane and are being held hostage) or ultimately for self-preservation. In the world the movie presents, Dutch or others would die if he were not violent. People living in South-

Central L.A. might understand that world view; Korean grocers do.

Some movies do focus obsessively and crassly on violence. And some of these movies make it to TV, or at least cable. *Predator* could have been made with fewer explosions, less blood, less explicitness. But it is here that the argument against violence on television breaks down most seriously. No one can deny that young children or even turbulent adolescents or vulnerable adults might stumble on such a movie and become transfixed. The question is, Why? The American Family Association is right that over the years we can see thousands and thousands of individual acts of violence on television. But anyone who sees a televised movie that exploits violence and who then decides violence is "cool" has to reject the thousands upon thousands of hours of television's moral lessons to the contrary, has to be entirely immune to the context in which cautious producers present even excessive violence time after time after time.

Even the strongest emotional argument used by violence's critics loses its force if context is seriously considered. Assuming that too many children are raised by parents who do not teach them a clear rejection of violence, what forces would cause even the most vulnerable viewers to reject the repeated message from television that violence is at best a necessary but questionable solution, but is more often outright wrong? The power of violence must be so overwhelming that moral lessons to the contrary are irrelevant.

And maybe that's true. Anyone with any historical perspective knows that violence appears to be an eternal theme, from Homer and the Bible right up to Schwarzenegger and Sylvester Stallone. Despite millennia of moral teachings to the contrary, some people are going to murder, rape, mutilate, and torture others, and there seems to be no certain way to predict who will, or to prevent them from doing so. But violence continues to be a story—both on the news and in drama—because it is unusual, something the vast majority of people do *not* engage in.

The drawing power of violence is not television's fault, any more than it is the Bible's. Anyone who has actually read the Bible is well aware of the grisly, explicit, and hideous scenes of violence that are sometimes recounted there, acts even the crassest producer would never dream of presenting on television. Yet the Bible is known for its moral teachings, while television's moral teachings about violence, which are wholly consistent with much of the Bible, are viewed as nonexistent, no matter how often and regularly they are repeated. Those people who engage in violent acts in real life have ignored what they have seen on television, not given it too much credence.

TV's critics now demand from fiction something law and religion have been unable to accomplish: moral instruction people will uniformly follow. Janet Reno echoes Plato, who said: "Both poets and prose-writers tell bad tales about men....I think we will forbid these tales and order them to compose the opposite kind of poetry and tell the opposite kind of tales."

What politicians and activists are now demanding from fiction is something law and religion have been unable to accomplish in centuries of trying: moral instruction that people will uniformly follow. While moral condemnations of art go back for centuries, the stakes have now grown because of the pervasiveness of television. In the present debate, Janet Reno has given dark but unmistakable hints that if artists don't voluntarily do something to stop this "national epidemic of violence," Washington will have to step in. In this Reno follows Plato, who long ago concluded: "Both poets and prose-writers tell bad tales about men in most important matters; they say that many unjust men are happy and many just men wretched, that injustice is profitable if it escapes notice, that justice is another's good and one's own punishment. I think we will forbid these tales and order them to compose the opposite kind of poetry and tell the opposite kind of tales."

Two premises underlie this desire to regulate art. First is the assumption that audiences are incapable of serious reflection and will mindlessly imitate what is presented to them. Second is that they will imitate good actions only when *no* bad actions are presented to the contrary. These assumptions may be an appropriate way to deal with young children. As some recent studies have confirmed, the sappy happiness of the purple dinosaur Barney, while cloying to many adults, provides very young children with a needed center. But such premises make no sense when dealing with adults.

And particularly when television is concerned, there is no rational way to separate adult audiences from younger audiences. There is no way to ensure that all parents will have their young children in bed by 9 or 10 p.m., and since children might be exposed to television accidentally at any given moment (and a moment is all it takes, at least the way this debate is shaping up), television must be wiped clean of all violence, of any bad action someone might imitate. There's no telling which child will be the one to imitate some fleeting image. Those on the P.C. watch will note that in this argument the culture of victimization reaches its nadir: Because of the vulnerability of a few, everybody must be treated like a child. In this scenario, everyone is a victim—a victim of art.

What Reno, like Plato, wants from artists is not art, it is edification. Art, by its nature, deals with complexity. The raw material of great drama is not answers but questions. Human interactions are fascinating precisely because they are enigmatic. The scene in Disney's film *The Program* in which young men lie down in the middle of the road was compelling because every adolescent male understands testing the limits, taking the dare. In this, the scene fits into a long tradition: *Rebel Without a Cause*'s game of chicken, for example, or *Stand By Me*'s bridge-crossing scene. It is tragic that boys died by imitating the scene from Disney's film. But the reason they imitated it is the same reason it was presented—because it was fascinating.

Such reasons are located deep within human nature. The illogic of violence has been a theme in literature from its beginnings with Homer, was exploited to great effect in Greek tragedy, brought explicitly to life in the hundreds of revenge plays that peppered the English Renaissance, and continues to fascinate in works as varied as Woody Allen's *Crimes and Misdemeanors*, Joseph Heller's *Catch-22*, and the recent television movie, *A Mother's Revenge*, which, while fictional, reverberates with the story of Ellie Nessler, who, frustrated with the justice system, shot and killed the man who had molested her child. We know that violence is wrong, everything around us reinforces that conviction, and yet sometimes we become violent. Why do humans act irrationally? That was Mr. Spock's eternal question in *Star Trek*, it is the question that lurks in every romantic comedy or murder mystery, and it is the grain of sand that irritates and motivates those of us who make up stories. If everyone acted logically, if everyone followed the rules, we wouldn't need fiction, and Orwell's *1984* would make no sense. It is the defiance in us that fascinates, not the compliance.

What is really at issue here is the war within human nature, the conflicts between what we know to be the law and what we feel. That theme has been explicit at least since *Antigone*. Sometimes the law is wrong, or does not adequately address an individual situation. And sometimes an individual feels compelled to go outside the law, even though objectively doing so is harmful. Thus, when the mother shoots her child's rapist in *A Mother's Revenge*, the script clearly portrays that deed as wrong, and yet it is an action the audience can understand. The question, "What would you do?" was prominent in the advertising for that movie. The point of the film was not to "answer" the question of revenge but to pose it, explore it. The story does not promote violence, glorify violence, or condemn violence. It is merely about violence.

The answer to television violence is not to treat adults like children but to recognize that children are capable of learning the lessons they will need as adults. Parents must teach their children at an early age that they are supposed to read television the same way they read a book—with care for the meaning.

Violence and danger are among the tools I have as a fiction maker, alongside sex, religion, truth, authority, honor, and every other human characteristic—strengths and weaknesses alike. Individually and in combination these characteristics can have tremendous effect, can lead people to laughter, outrage, understanding, compassion. But as tools, they have no value until they are used. Homer and Shakespeare, Francis Ford Coppola and Martin Scorcese have used the tool of violence well to tell us some fundamental truths about ourselves. Many more have used violence poorly.

Aristotle said centuries ago that tragedy seeks to evoke pity and terror in the audience. This is as true now as it ever was. And something inside us wants pity and terror from more than just drama. Political campaigns are regularly about pity and terror, the daily news is about pity and terror, gossip is about pity and terror, gross-out contests among 10-year-olds are about pity and terror. Whatever the source of that need, it is fundamental to human nature, and somehow human nature always provides abundant stories, real or imagined, to supply the need.

The answer to television violence is not to treat adults like children but to recognize that children are capable of learning the lessons they will need as adults. Parents must teach their children at an early age that they are supposed to read television the same way they read a book—with care for the meaning. None of us is simple, so you must constantly read between the lines, verify what we say against your values and truths. Only then can you decide how to take what we say, to believe us, follow us, or condemn us.

Unless we learn to read the stories we are told better than we have been, we will continue to argue over nothing and to blame artists for problems that reside at the heart of human nature. If we use the recent, unfortunate incidents involving children and reckless adolescents to justify artistic regulation, we risk taking the beauty and greatness out of art. We will have to forbid artists to write about human beings. What we will leave behind is a tepid trail of catechisms for simpletons, bloodless tales no one would have any desire to watch in the first place, much less imitate.

David Link is a writer living in Los Angeles.

THE Great Pretenders

How the press helps public figures stage the news

By Paul H. Weaver

News isn't just any account of what happened yesterday. It's a story, with characters, action, plot, points of view, and dramatic closure. In particular, it's a story about crisis and emergency response—about the waxing and waning of urgent danger to the community and about the actions of responsible officials to cope. Thus, newsmakers in search of publicity and journalists in search of news don't converge on just any sort of news event. They enact, select, and narrate events in the image of the genre's overarching drama of urgent public danger. In other words,

ARTHUR MATSON

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they translate themselves and their projects into the language and theater of crisis.

In some circumstances, this translation involves little or no change. When a real crisis is at hand and people are taking real steps to cope with it, the focus on crisis and emergency response simply means that the media faithfully reflect what is actually happening.

But the news genre insists that crises and emergency responses are taking place every day and everywhere. As newsmakers and journalists adapt the news story's preconception of ordinary events as crises and the front page's preconception of ordinary days as times of great excitement and historical consequence, the actions they undertake and the stories they tell become fabrications. The news stops representing the real world and begins to *falsify* the real world. The transaction between newsmaker and journalist degenerates into a joint exercise in manipulation and exploitation.

The newsmakers and journalists involved are more or less aware of the falseness of what they're up to. However, disclosing that falseness would undermine the benefits they're seeking from the news process. Newsmakers are looking for public approval and support. Telling the audience that they're playacting for the press wouldn't exactly serve their purpose. Journalists present themselves to the public as objective observers and reporters of the real world. Disclosing the fact that they're covering fabrications as news events would destroy their authority with readers.

The word *lying* is harsh, but it's the correct term for the behaviors we are talking about here. A lie is defined as a misrepresentation of one's state of mind or belief as to what is authentic and true. When people script and enact events and simulate sentiments for the media's consumption, they meet the simple dictionary test of misrepresentation. When journalists present these made-for-media impersonations as authentic news, they also meet that dictionary test. Journalists are almost always aware of what newsmakers and sources are really up to; it rarely happens that they are completely taken in by the fabrications.

Lest there be any misunderstanding, I had better say immediately that I am not talking here about the corruptions of truth and history that take place when journalists and newsmakers break the rules and falsify facts. I am talking about what happens when people *follow* the rules, when the facts are right and the relevant people have been contacted and the story has been told straight. I am arguing that in such circumstances, officials and journalists are usually lying. They're pretending that the events they're enacting and narrating are bona-fide actions, whereas in fact most news events and stories are prepared performances.

The following story, in my opinion one of the best and most important news reports to appear in America in the second half of the 20th century, is a good example of the way in which the news genre invites and validates dishonest behavior and thereby turns public life into a farrago of manipulative fictions. It appeared on the front page of *The New York Times* on December 4, 1964.

796 Students Arrested as Police Break Up Sit-In at U. of California

by Wallace Turner

BERKELEY, Calif., Dec. 3—The police arrested 796 University of California students in 12 hours today, dragging many on their backs down flights of stairs to end a sit-in demonstration.

The mass arrests were made in removing demonstrators who took possession of the administration building on the campus last night.

The Free Speech Movement, the protesting student group, retaliated by calling a student strike. Faculty members, at a special meeting, gave evidence of some support for the students. The dispute over students' political and protest activities has shaken the university for almost three months.

The strike was called after Gov. Edmund G. Brown ordered early this morning that sit-in demonstrators be removed by force from the corridors of Sproul Hall, the administration building. Mr. Brown said that the students' action constituted "anarchy."

Charges of police brutality were made as a result of the removals and arrests today.

In this 27,500-student university, the effectiveness of the strike was difficult to measure. In the morning pickets wheeled in front of the doors of all the classroom buildings and, although students continued to pass through the lines, there were reports that many classrooms were empty.

Clark Kerr, president of the university, issued a statement tonight declaring that the Free Speech Movement represented an "understandable concern" last September but that it "has now become an instrument of anarchy and of personal aggrandizement."

Representatives of about 75 of the 82 academic departments at the university, in a meeting this afternoon, found that about 20 departments were functioning normally in the face of the strike. Prof. Charles Hulten, chairman of the Journalism Department, said that individual faculty members would decide tomorrow whether to hold classes.

A meeting of 500 of the 1,200 members of the faculty voted a resolution this afternoon stating that the university faced a "desperate situation."

The faculty members favor new and liberalized campus rules for political activity and setting up a committee to which students could appeal administration decisions on penalties for violating university rules on political action.

Plan Telegram to Brown

The resolution also asked "that all pending campus action against students for acts occurring before the present date be dropped."

At the meeting, faculty members drafted a telegram to be sent to Governor Brown. It condemned the use of the California Highway Patrol on the campus and the exclusion of faculty members from Sproul Hall.

Last night about 1,000 sit-in demonstrators filled the corridors of Sproul Hall before the doors were locked at 7:00 P.M. They sat there, sleeping, singing, studying and talking until about 3:10 A.M., when Edward W. Strong, the chancellor for this campus of the multi-campus university, went to Sproul Hall.

Mr. Strong read a statement asking the students to leave. A few did, but most stayed. They had put up barricades at the stairways and were concentrated on the second, third, and fourth floors.

The police took an elevator to the fourth floor and began removing students there.

Capt. Larry Waldt of the Alameda County sheriff's office made the estimate of the number

of students arrested.

By midday, the routine was standard, as illustrated by the arrest of Jean Golson.

When she found herself at the head of the line of demonstrators, Sgt. Don Smithson of the Berkeley police force told her, "You are under arrest for trespass and unlawful assembly."

Another Berkeley policeman held a microphone to record her answers and the sergeant's statements. A third made notes in a booking form.

"If you walk out, you will not be charged with resisting arrest, but if we are forced to carry you out, you will be charged with resisting arrest," the sergeant said.

'Female on Way'

Miss Golson said she would not walk out. A number was held to her chest and her photograph was taken. The Berkeley police pulled her by the arms for a few feet and then turned her over to two sheriff's deputies from Alameda County. They dragged her quickly down the corridor on her back, shouting "Female on the way."

At a booking desk, she was pulled erect and was fingerprinted. Then she was pulled into an office for searching by two matrons from the sheriff's office.

Then she was dragged back into the elevator, where other girls were being held. When the elevator was full, the girls were taken to the basement and were loaded into a van for transportation to the county jail.

The bail schedule was $75 each on the trespass and unlawful assembly charges and $100 for resisting arrest.

Total Bail is $150,000

Booking officers at the Alameda County sheriff's office said that about 25 of the demonstrators posted bail soon after being booked. Meantime, lawyers, parents and others were meeting with a municipal judge attempting to obtain an order freeing the demonstrators on their own recognizance. The total bail involved will be more than $150,000.

For men, the handling was significantly different once they were turned over to the sheriff's deputies after arrest. Those men who would walk were dragged down four flights of steps to the basement. Those who remained limp were dragged by the arms down the steps, departing to the cries of "Good luck" from their friends.

There were about a score of sheriff's deputies whose job was to drag the men down the steps. As the day passed, their humor became more acid. Some bumped the buttocks of their male prisoners as they dragged them down the stairs.

"There'll be some sore rumps in jail tonight," one deputy said.

After the corridors of Sproul Hall were closed, a floor at a time, the litter of the sit-ins remained. There were empty fruit cartons, crushed soft-drink cans, a guitar, stacks of textbooks, sleeping bags and blankets and scores of notebooks with lecture notes in them.

Shouts 'This Is Wonderful'

When Mario Savio, a protest leader, was taken away by the police, he shouted, "This is wonderful—wonderful. We'll bring the university to our terms."

Another leader, Arthur Goldberg, said as he was led away, "Good. The kids have learned more about democracy here than they could in 40 years of classes. This is a perfect example of how the State of California plays the game."

Mr. Savio is a New Yorker who is the president of the Berkeley Chapter of Friends of S.N.C.C., the Student Nonviolent Coordinating Committee. He was involved last spring in recruiting demonstrators who slept in at the Sheraton Palace Hotel. He was arrested on a charge of disturbing the peace. He also worked in the S.N.C.C. program in Mississippi last summer.

Another leader of the Free Speech Movement is Bettina Aptheker. She is a member of the W.E.B. DuBois Club which has been described by Department of Justice sources as a front among college students for the Communist party.

The dispute that led to the arrests began last September when the university administration announced that it would no longer permit the use of a strip of campus property for soliciting political funds and recruiting protest demonstrators.

The students objected, and a series of demonstrations resulted. Eight students were suspended and the demonstrations were stepped up.

Last month, the university regents ordered that the students be permitted to recruit demonstrators and collect political contributions on campus. But the regents said the students must be held accountable for off-campus violations of the law in projects begun on campus.

They also said that discipline must be tightened.

Earlier this week, four students received letters from the administration indicating that they were to be disciplined, and perhaps expelled. Yesterday the newest demonstration began in protest.

Conservatives Quit Group

The Free Speech Movement was organized with an executive committee of about 60 members, each representing some campus organization. Initially, conservative groups belonged, including the Young Republicans, but these recently disassociated themselves.

The leadership is concentrated in an 11-member steering committee that appears to be dominated by representatives of campus chapters of the Congress for Racial Equality, the Young Socialist League, the Young Socialist Alliance, Slate (a student political organization) and the W.E.B. DuBois Club.

At a noon rally of about 5,000 students, Steven Weisman, a leader of the Free Speech Movement, called for an investigation of what he termed police brutality. He also demanded the removal of Mr. Kerr as president of the university.

In his statement tonight, Mr. Kerr denied that freedom of speech had ever been an issue and said, "The protest has been over organizing political action on campus."

Mr. Kerr accused the Free Speech Movement of violating the law, of intolerance, distortion of the truth, irrationality, indecency, and ill will.

In Sacramento, Governor Brown said, "We're not going to have anarchy in the state of California while I'm Governor, and that's anarchy. I did plan to go to Berkeley, but I have other things to do."

Opposition to the Free Speech Movement was in evidence here today. Some students standing at the noon rally held signs reading "Throw the Bums Out" and "Law Not Anarchy—The Majority of Students Do Not Support This Demonstration."

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This is, of course, a magnificent piece of reporting and newswriting about an event that was as electrifying as it was consequential. Three decades later, the story still brings back memories (for those of us of a certain age), and reading it with the advantage of hindsight, one is struck by the prescience with which the story identifies the whole complex pattern of the campus protest and student radicalism of the '60s in its first major eruption. Nevertheless, this story perfectly exemplifies the way in which the news business makes journalism an instrument of lying and manipulation.

On the surface, to be sure, the story is a monument to facticity. This is a piece of writing that at all times is trying very hard to persuade the reader that it is a truthful, reliable, accurate report of what happened at Berkeley that fateful December day. Virtually every statement in the text is a statement of unambiguous fact. With a handful of exceptions, every statement apparently

derives from the reporter's personal visual observation. The rest come from official texts put out by individuals or organizations or from earlier newspaper accounts.

The facts presented in this story are not only true, they are *obviously* true. Observation can be careful or cursory; it can detect small or gross distinctions; it can be in fine or rough focus; it may discern minute or broad characteristics. This story reflects a method of cursory observation in rough focus that seeks only the gross characteristics of visible physical particulars. These are statements of fact about matters that it's particularly easy to be right about, and particularly hard to be mistaken about.

This may be seen most clearly in the vocabulary employed in the story. Nearly all the words used are in widespread popular usage; they are relatively few and recur fairly often; and most of them denote tangible things or qualities. Moreover, these words are not highly specific. Thus, people who are enrolled to study at the University of California are invariably described only as *students*, never as graduate students or undergraduates, juniors or seniors, premed students or electrical engineering students. Similarly, people who teach at the university are always *faculty members* and not scholars, researchers, teaching assistants, epidemiologists, or anything else. The crudeness of the reporter's lexicon makes the story particularly easy to accept as true, since an observer is less likely to err in identifying a student than he is in identifying a graduate student or nontenured associate professor or research scholar.

The news genre insists that crisis and emergency responses are taking place every day and everywhere. As newsmakers and journalists adapt the news story's preconception of ordinary events as crises, the actions they undertake and the stories they tell become fabrications. The news stops representing the real world and begins to falsify the real world. The transaction between newsmaker and journalist degenerates into a joint exercise in manipulation and exploitation.

The story also invites us to accept as true and precise its account of the events by narrating them in a highly impersonal voice. Although the text was in fact reported and written by a human being, he never speaks in the first person or expresses his own feelings. The prose does not evaluate or qualify. By withholding the subjective aspect of the writer-event encounter, the story is telling us that it was written by a person with an intense commitment to factual reporting and the self-discipline to bring it off. It is inviting us to trust this man. (It is also saying, somewhat inconsistently, that the events at Berkeley were so dramatic and unforgettable that they require no elaboration or rhetorical embroidery, no direct writer-to-reader communications, for the entire episode to be intelligible and compelling to the reader.)

A small indication of the impersonality of this authorial voice is to be found in the scarcity of adjectives in the story—only some 10 percent of the words are adjectives. And almost all of these adjectives in this text denote number, sequence, location, or some other objective characteristic of the noun they modify.

A further element of impersonality is provided by the story's insistently chaotic structure. As one reads the story through, the subject changes no fewer than 15 times; in only three instances are there five or more successive paragraphs treating the same general subject without interruption, and the average number of successive paragraphs on the same subject is approximately three. The impression created is that the story is a more or less random list of facts about actions, with little or no interpretation or other input from the journalist.

It isn't so, of course. The news story's rhetoric of objectivity is just that, a rhetoric, a set of stylistic devices for creating an impression that, in the case of this news report, is sharply at odds with the reality. This is no random bunch of facts. It's a story, an integrated narrative whole that possesses all the attributes classically identified by Aristotle in the *Poetics* as fundamentals of drama. There's *action* (for instance, the arrests), *rhetoric* (e.g., the deputies' acid comments about "sore rumps"), *spectacle, character, plot reversals, and closure.*

This was a story about a community in crisis. This feature of the story is perhaps most importantly and obviously conveyed by the fact that it appeared on the front page, was summarized by a banner headline spreading across four columns, and was allowed to run to over 2,000 words, very long by the standards of a daily newspaper. The urgent, danger-laden, consequence-fraught nature of these events is further evoked by the ironic sparseness and impersonality of the narrative voice—these events are so important they speak for themselves, the story suggests.

The sense of emergency is also conveyed by the way in which the events themselves are subordinated to some unnamed, superseding, larger concern. Thus, the second paragraph describes the arrests as a subordinate element of the larger, overarching enterprise of "removing demonstrators who took possession of the administration building on the campus last night."

By the same token, the actual offenses for which the demonstrators were put under arrest (trespass and unlawful assembly)

are mentioned in passing as a kind of afterthought, halfway through the story. By contrast, the political issues raised by or over the arrests—the FSM's charge that law-enforcement officers had brutalized the demonstrators, the faculty's demand that police be removed from the campus, the governor's insistence that the demonstration had been an exercise in anarchy—are described explicitly and specifically in the opening paragraphs.

Notwithstanding all this, the story lies. It tells a lie; it is a lie.

The lie is the story's implication that the events are unself-conscious and authentic, and that the journalist is an uninvolved observer whose presence and interest doesn't affect the newsmakers' behavior. Both of these implications are untrue.

The presence of the journalist, with his crisis-and-emergency-response concept of news and his big audience, greatly affects the newsmakers. Each newsmaker is highly self-conscious, and his actions are carefully tailored to attract the media's attention and to advance his purposes in the public-policy arena. The journalist and the newsmaker both know all this. Yet both pretend not to know it. As a result, the journalist and newsmaker more or less knowingly misrepresent both the event and their roles in the event.

Take the FSM. As the story explains, it was dominated by liberal and leftist activist groups recently energized by the civil rights struggle in the South. Returning to Berkeley after their Mississippi summer, some of the people who were soon to become leaders of the FSM began applying to the university perspectives and tactics they'd learned in the crusade for black equality. As the story reports, they began to confront the university administration over its restrictions on their political activism.

These confrontations were both real and symbolic. They were meant to induce the university to relax or eliminate its prohibitions against on-campus activism. Alternatively, they were meant to elicit official resistance to make the point that, like Northern society as a whole, the U.C. system, contrary to appearances, was an illiberal, conservative, and repressive regime.

Thus, even if the confrontations didn't force the university to back down on the rules issue, they would, in the catch phrase of the day, raise the consciousness of the community, winning new converts to their cause and shifting the center of gravity of public opinion in their direction. For either of these outcomes to materialize, all the FSM needed to do was stage confrontations and get publicity. From such a combination, they felt sure they would emerge big winners.

Newsmakers and journalists can misrepresent the real world even when they report all facts correctly and have spoken with all of the relevant people. Even then, newsmakers and journalists are misleading readers by pretending that the events they're enacting and narrating are spontaneous and unrehearsed events. In fact, most news events and stories are little more than prepared performances.

So when the FSM staged the sit-in in Sproul Hall or, after the bust, called for a student strike to shut down the university in protest over the arrests, they were engaged in a highly self-conscious strategy of political action and political manipulation. It was a strategy, in effect, of conceiving, staging, and arranging to derive political benefit from news stories. For it to work, all that was really needed was for the media to cover these actions on their own terms and thereby define them as real events. With the validation and outreach such coverage would provide, the FSM's program would move forward.

The FSM's strategies and tactics would fail, however, if they were ignored, or if the news stories covering them decoded and deconstructed the actions as I've done in the paragraphs just above. Stories reporting that the FSM was staging events designed to manipulate others in various ways were likely to harm the FSM's cause. Such stories would invalidate the ploys, draw attention to the manipulative intentions and approaches inspiring them, and discourage people from engaging in the reflexive responses the FSM was hoping its actions would stimulate them to engage in.

The *Times* dispatch from Berkeley covered the demonstration and student strike on the FSM's terms. Except for the statements by Mario Savio and Arthur Goldberg exulting in the authorities' repressive actions—which, as given, are bewildering and cry out in vain for further explanation along the lines of the analysis above—the story reports events in a way that strongly implies that they were unself-conscious, unmanipulative, authentic. It thereby validates the FSM's made-for-media lie.

And since the reporter clearly knew a lot about this manipulative aspect of the day's events, the *Times* is involved in a lie of its own, or, more precisely, two such lies. The first lie consisted of all the statements that presented the ostensible, public version of the FSM's actions without indicating the existence of the other dimension. The second lie was the *Times*'s implied assertion that it was being neutral and dispassionate in giving an objective report of the day's events, when in fact the reporter was well aware that the FSM was engaging in a made-for-media propaganda action that would achieve its effect by being covered by the news

media as an unself-conscious, authentic public event.

The same analysis applies to the other major actors at Berkeley. The *Times* was lying about their actions, too, in precisely the same way.

Pat Brown, the governor who ordered the law-enforcement action to arrest and remove the demonstrators, was also engaging in actions that were meant to define a kind of dramatic propaganda against the activists of the FSM and in favor of centrists and establishmentarians whom the FSM was trying to discredit. A center-leaning liberal, Brown at the time was looking anxiously over his shoulder at a conservative movie star and actors'-union leader named Ronald Reagan, who was then emerging as a right-wing challenger for the governor's office and who naturally took a very hard line against the FSM.

In ordering the police action against the sit-in, then, Brown was not only enforcing the law and seeking to reestablish order at the university, he was also trying to discredit the FSM and to forestall the potential criticism and challenge of Ronald Reagan. In other words, he was taking actions designed to manipulate public perceptions and actions in his favor merely by virtue of being covered as authentic actions. He was trying to demystify the left-wing adversaries of university-life-as-usual who were pushing the FSM to confront and discredit the university as a symbol of the larger society. He was trying to raise conservative consciousness by his actions. By failing to cover this aspect of the governor's action, which of course was well known to the reporter, the *Times* knowingly misrepresented it, thereby validating the governor's manipulative pseudo-actions as much as it was validating the FSM's actions.

The analysis could be carried over to other actors—the university administrators, the faculty, the police departments, and so on. The news story gave each a stage on which to enact a propaganda play designed to manipulate appearances and the public, secure in the knowledge that the story wouldn't decode, deconstruct, or otherwise undermine the performance. The news story thereby gave each an opportunity to turn public attention to private advantage by activating constitutional government's emergency powers in his own interest.

This subtle and complicated mendacity is a product, ultimately, of the ironic voice in which the news story is narrated. I use the word *irony* here in its classical sense of disguise and inversion, by which the narrator pretends to a point of view on the material under discussion different from the one he actually holds and by which he counts on the reader to make the correction and arrive at the correct understanding of his real meaning. A central purpose of irony is to create emphasis, and through the reader's active involvement in construing meaning, intensify the communion achieved by an act of communication. Irony is what is in play when one turns to a friend who has just come in drenched and miserable from an intolerably stormy day and asks, Nice weather, huh? The understatement and misdirection, in the context of the obvious fact that the weather isn't nice, are ways of conveying sympathy for his experience and distaste for the weather without being overblown.

A news story tells its yarn in a voice that pretends not to be telling a yarn, merely reciting a list of facts. In fact, of course, what it tells is a story; the pose of objectivity is just a means of encouraging the reader to attend to and accept the story. The voice intensifies meaning, reinforces the particular story's construction of events, screens out discrepant material that might undercut the story, and invites the reader to get involved with and to believe in the text.

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That pose, however, has consequences that go far beyond those intended. In real life, when we speak with others about events we have witnessed or experiences we have been through, we do not confine ourselves to facts or to objectively verifiable statements. We make whatever statements it seems to us are necessary to convey our experience as best we understand it. Some of those statements may be objective and factual in nature. Others may not be. Often the facts are unclear or their significance is ambiguous, and in such cases we switch voices, drop any pretense to objectivity, and start talking about the uncertainties and ambiguities or broader meanings we're aware of. In other words, we take responsibility for our meaning and (if any) our irony. If we come to a situation in which we can't be sure the reader will have the information he needs to decode and construe our ironies, we provide those cues. Stepping out of the ironic pose, we do what it takes to communicate experience and meaning successfully.

The news story can't or won't do this. It stays in its objective

voice even when that becomes counterproductive from the point of view of successfully conveying information and understanding to the reader. There are several ways of thinking about why it does so, all of them arguably just different ways of saying the same thing. One could say that the news form is so rigid, and the news organization using and defining it so bureaucratized, that working journalists are denied the expository flexibility they need to ensure that the meaning of the news story doesn't get out of synch with what they observed of and understood about the event. One could say that the working journalist is so desensitized to his or her intellectual responsibility to the reader, or so sensitized to the intellectual demands made by the newsmaker, that he or she willingly tolerates a substantial discrepancy between what the story means and what actually took place as he or she understood it.

Newsmakers know that the news story can almost always be counted on to stay in its ironically objective voice, and they aggressively take advantage of this fact. The news genre's refusal to shift voices implies that if a newsmaker pretends to an action and the media cover it, they'll cover the action more or less on the newsmaker's terms. They won't drop their accustomed posture of objectivity, accept responsibility for the meaning their words are conveying, and start telling a story that diverges substantially from the newsmaker's performance. Thus, the genre's objective voice turns news into a stage on which the newsmaker may strut his stuff, secure in the knowledge that backstage realities will stay backstage.

Newsmakers know the news story can be counted on to stay in its ironically objective voice, and they take advantage of this fact. If a newsmaker pretends to an action, the media will cover it more or less on the newsmaker's terms, without accepting responsibility for the meaning of their words, and will not tell a story that diverges substantially from the newsmaker's performance. The newsmaker may strut his stuff, secure in the knowledge that backstage realities will stay backstage.

I remember, during my Washington days, an evening I spent with a small party hosted by a senior White House staff member and his wife. We began with drinks at the private bar in the president's box at the Kennedy Center, stayed to watch the play, then finished up with supper at a comfortable French restaurant on Pennsylvania Avenue. Around the table, the conversation was dominated by the aide, who was full of amusing talk about this or that aspect of White House operations and the actual roles of various senior people. This was early in the Reagan administration, and Washingtonians were still doping out who was who and how the place worked. The aide was a member of the centrist Baker-Deaver axis on the White House staff, and naturally his stories were favorable to the personalities and perspectives of his fellow nonconservatives.

Practically every observation he made and every vignette he told, it seemed, moved the White House correspondent of *The New York Times*, who was among our small number, to remark, in an enthusiastic, confidential tone, "That's a story." He must have said that half a dozen times, and he wasn't just being polite, it turned out. During the ensuing several weeks, I was fascinated to note that several of the matters the White House staff guy had talked about appeared as stories in the *Times* under our dinner companion's byline.

None of the stories made even the most veiled reference to the White House aide who had been their true originator. None described the aide's personal and political position in the White House staff at the time. None located themselves in the context of either the White House staff's overall communications goals or of the nonconservative wing's political situation. None took any note of the actual way in which the ideas came to the author.

The point here isn't that there was anything wrong with the way the *Times* ran these stories. To the contrary, this was a normal, up-to-standard exercise in Washington journalism. The genre's exclusion of reflexive and self-referential information about the origins of a story is a crucial element of the way the news story attracts attention and conveys meaning.

How different the reader's impression would have been had any of the stories I saw pitched over dinner included, at the end, a little note reading as follows: "The subject of this story was suggested by a senior White House aide whom the *Times* has agreed not to identify as a condition of his assistance. The story idea was tendered during a theater-and-dinner party hosted by the aide and his wife; the aide is a non-Reagan loyalist and moderate who is aligned with the Baker-Deaver wing of the staff and who appeared to have been seeking to attract favorable publicity to allies of his on the president's ideologically divided staff."

No such note is written because it would be inconsistent with the ironically objective voice of the news genre. As long as that narrative style prevails, the news story will be a standing invitation for newsmakers to invent events and fabricate postures. It will be an incitement to lie.

Contributing Editor Paul H. Weaver is a writer in Palo Alto, California.

Reading Between the Lines

A day in the life of the news genre

1 News is a story of crisis and emergency response.

The aftermath of a grisly multiple murder on a Long Island commuter train overshadows major national events. In keeping with the crisis theme, the story focuses not on the *pro forma* arraignment that was the day's main institutional event but on the threatening racial anger that apparently motivated the killer. The killer's note, in effect a press release describing his motives and seeking vindication, was disclosed by law-enforcement officials evidently persuaded that the note would vilify the killer, boost the odds of his conviction, and make them look good in the bargain. The story's focus on actions taken by newsmakers to turn public attention to private advantage is typical of the genre, in which fabricated events usually displace real ones.

2 News represents even routine institutional events as crises.

A technical financial study of the Clinton health plan is assimilated to the news genre's crisis format. This is done primarily by giving the story a high-ranking, front-page location, thereby endowing it with urgency and magnitude, and by focusing on a single aspect of the event that has strongly positive or negative implications for the community. In this instance, a study that appears to have been equally critical of and favorable to the Clinton plan is presented as mainly favorable. This emphasis, however, didn't persuade the editing staff, which wrote a headline expressing the opposite view of the report's central significance.

3 The news story is occasioned by an official proposal, action, or statement, which is reported largely on the newsmaker's terms.

"Xerox announced" is the operative action here. The news story's ironically objective narrative voice prevents the reporter from describing the event on his own authority, and, as in this story, often leads him to adopt the specific words as well as general point of the announcement. Thus, the *Times*'s headline and lead paragraph adopt the company's self-serving, euphemistic way of describing layoffs as "sharply cutting back their payrolls in an effort to become more efficient and improve profits."

4 The news story validates the newsmaker propaganda built into the fabrication it's about.

The video game manufacturers' announcement of an undefined and voluntary product-rating system, to be implemented sometime in the future, was meant to give the impression that government regulation of video-game content isn't necessary and that the industry is handling concerns about violent and sexual content by itself. This news report is replete with contrasting views and written with an astringent neutrality (as most of the stories on this front page are not), yet merely by virtue of focusing on the industry's fabrication, it reinforces the anti-regulation cause.

5 Some news stories don't fit the crisis-and-emergency-response mold.

Here, reporter Steven Erlanger got free of the usual formats and themes, spent some time observing and interviewing in Tomsk, and wrote a story that simply reported what he learned in his own voice and on his own authority. The result is a fascinating picture of change and continuity in Russian politics that is utterly free of the distortions engendered by the preconceptions of the news genre and its related dependency on newsmakers.

—Paul H. Weaver

"All the News That's Fit to Print"

The New York Times

National Edition

Southern California: Sunny. Near seasonable readings with highs upper 60's to lower 70's. Tonight, fair. Low near 50. Weather map and forecasts for other areas are on page B5.

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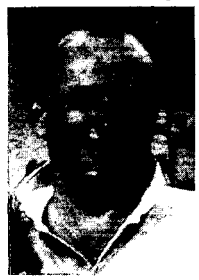
Picture of Suspect Emerges in Long Island Killings



Vic DeLuca/The New York Times

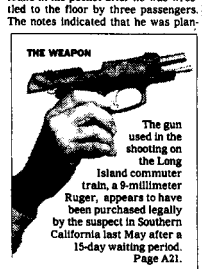
Colin Ferguson, the suspect in the Long Island Rail Road rampage Tuesday night, being led to his arraignment yesterday. Among those who died were Dennis McCarthy, top, and Maria Theresa Magtoto.

1 By JAMES BARRON

The man accused of opening fire on a Long Island Rail Road commuter train and killing five people was arraigned on murder charges yesterday, as officials released a sheaf of handwritten notes in which he vented his rage about everyone from Gov. Mario M. Cuomo to the state Workers' Compensation Board to Asians, whites and "Uncle Tom Negroes."

The suspect was identified as Colin Ferguson, 35, of Brooklyn, a native of Jamaica who had worked at a Long Island burglar alarm company and had taken courses at Adelphi University in Garden City, N.Y., as recently as last year.

The notes, apparently written by Mr. Ferguson in tight, tiny letters, were found in his pocket after he was wrestled to the floor by three passengers. The notes indicated that he was planning to wait to pull the trigger until the crowded rush-hour train had crossed the city line into Nassau County "because of my respect for Mayor David Dinkins" and Police Commissioner Raymond W. Kelly. "NYC was spared," he wrote, even though he took issue with "the sloppy running of the #2 train" and the New York City Transit Police.



THE WEAPON

The gun used in the shooting on the Long Island commuter train, a 9-millimeter Ruger, appears to have been purchased legally by the suspect in Southern California last May after a 15-day waiting period. Page A21.

Notes Found as Gunman Was Seized on Train Set Forth His Rage

Evidence of Careful Planning

As frightened commuters tried to return to their familiar rush-hour routines yesterday, the authorities offered indications that Mr. Ferguson had planned the shooting spree carefully. Law-enforcement officials said he had bought the 9-millimeter semiautomatic handgun last May, traveling to Los Angeles to make the $400 purchase and sitting out the 15-day waiting period required under California's gun laws. And on Tuesday he packed more than 100 rounds of ammunition in a small duffel bag, apparently so that he could reload quickly.

As Mr. Ferguson was being booked and fingerprinted yesterday, the death toll climbed to five yesterday, with 21 hurt. Eighteen of the injured were shooting victims, of whom one was breathing with a respirator yesterday. Two others were apparently hurt in the stampede of passengers as frightened commuters fled to adjacent cars on the train.

Mr. Ferguson, a pudgy-looking black man whose hands were cuffed behind him, was held without bail after his arraignment yesterday afternoon on four counts of second-degree murder and a weapons charge. The fifth victim died later, and the authorities said a fifth murder count would be filed.

To Be Treated as Bias Case

Mr. Ferguson said nothing at the hearing, and did not enter a plea. He was brought into the courtroom with his head hanging down, his chin against his chest. Five minutes later, he was gone.

As he was led from the courthouse, he turned to a television reporter, who asked if he hated whites.

"It's a lie," Mr. Ferguson said.

But Barry Grennan, chief of the major offense bureau of the Nassau County District Attorney's Office, said that the case would be treated as a bias crime, based on the notes found in Mr. Ferguson's pocket after three passen-

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ANALYSIS SAYS COST OF HEALTH EFFORT IS UNDERESTIMATED

BUT LOWER DEFICIT IS SEEN

An Independent Study Projects Larger Premiums Than Are Forecast in Clinton Plan

2 By ROBERT PEAR
Special to The New York Times

WASHINGTON, Dec. 8 — A comprehensive analysis of President Clinton's health plan finds that it would reduce the Federal budget deficit, as Mr. Clinton said, but that the costs to Government and business would be higher than advertised by the White House.

In the most complete independent analysis of Mr. Clinton's plan, Lewin-VHI, a respected nonpartisan consulting concern, said today that insurance premiums for the wide range of health benefits promised by Mr. Clinton would be higher than estimated by the White House. Under the Clinton plan, employers would pay at least 80 percent of such premiums, and consumers would generally pay the remainder.

The study accepts Mr. Clinton's assumption that the Federal Government can slow the rate of increase in health care spending by regulating insurance premiums and by increasing competition among doctors and hospitals.

'Estimates Overly Optimistic'

Using this assumption, Lawrence S. Lewin, chairman of Lewin-VHI, said: "The Administration's cost estimates are overly optimistic, but the Clinton plan still reduces the Federal budget deficit, and it holds together logically. It meets the President's requirement of providing universal coverage, and it does so without relying on an increase in broad-based income taxes."

The study is probably as authoritative as any by a private company and could set the tone for public debate until the Congressional Budget Office issues its analysis early next year.

A $78 Billion Difference

John F. Sheils, chief author of the Lewin study, said that from 1995 to the year 2000 the Clinton proposal would cost the Government $78 billion more than the Administration's estimate of $286 billion. It would reduce the Federal budget deficit by a cumulative total of $25 billion in that period, rather than the $103 billion predicted by the Administration, he said.

Alice M. Rivlin, Deputy Director of the Office of Management and Budget, welcomed Mr. Lewin's report as a

Continued on Page A17, Column 3

Xerox Is Latest **3** *To Cut Payroll*

The Xerox Corporation is joining a growing list of big companies that are sharply cutting back their payrolls in an effort to become more efficient and improve profits.

Xerox announced that it would cut more than 10,000 jobs, or nearly 10 percent of its work force, over the next three years.

Since Sept. 1, more than a dozen big companies have announced plans to cut more than 5 percent of their jobs. Earlier this week, RJR Nabisco said it would eliminate 9 percent of its work force. And in the last year, giants like I.B.M. and General Motors have said they would shed tens of thousands of workers.

Business Day, page C1.

Mexican Vows Some Changes In Voting Rules

By TIM GOLDEN
Special to The New York Times

MEXICO CITY, Dec. 8 — Seeking to dispel doubts about the fairness of Mexico's political process, the governing party's new presidential candidate has promised to issue detailed fund-raising and spending reports and take other steps to insure the credibility of elections next year.

In an interview Tuesday, the candidate, Luis Donaldo Colosio Murrieta, outlined a campaign strategy that seemed less about winning than about routing the memory of a 1988 vote that many Mexicans believe President Carlos Salinas de Gortari won by fraud. Mr. Colosio is the overwhelming favorite in the election, scheduled for next August.

For the first time in the 64 years that his party has governed, Mr. Colosio said, he would issue regular reports on where his campaign was getting its funds and how they were being spent. He said that he opposed foreign election monitors, but that he would propose a wider role for Mexican-born election observers and would accept an independent audit of the voter rolls.

"This is in the short term," said Mr. Colosio, a 43-year-old former Secretary of Social Development. "In the medium term, I would propose to continue the democratic transformation of the country so that future generations can be confident of the political process, so that there will be clear rules in politics as there are in the economy."

Changes Called Insufficient

Most of the changes Mr. Colosio endorsed appeared merely an elaboration on steps already contemplated by the Government or on new electoral laws approved this summer. The leaders of several election-monitoring groups said that the changes were encouraging but that they considered them far from sufficient to guarantee a democratic process next August.

During his five-year administration, Mr. Salinas has made general pledges of greater democracy, but for the most part the results have failed to satisfy his domestic and foreign critics. The

Continued on Page A4, Column 1

CLINTON PROPOSES TOUGH NEW RULES ON BIAS BY BANKS

BROADER ACCESS TO CREDIT

Administration Sees Minorities Gaining Billions of Dollars in New Loan Availability

By JOHN H. CUSHMAN Jr.
Special to The New York Times

WASHINGTON, Dec. 8 — The Clinton Administration proposed tough new tests today designed to insure that banks end discrimination in their lending to minorities and people with low and moderate incomes.

The changes are the latest development in a yearlong effort by the Administration to broaden access to credit, financial services and investment. Administration officials predicted that people and businesses in these communities would have new access that they might not otherwise have to billions of dollars of credit once the proposals take effect in 1995.

The regulations, which set higher standards for banks to meet, for the first time apply objective measurements on three levels. Banks would be tested in several ways to determine if their loan activities in specific neighborhoods are fair, whether they are making investments in the community's growth by making grants for economic development, and whether they are providing a full array of customer services.

Although Federal examiners would still have a fair amount of leeway in determining whether an institution is complying with the law, banks could for the first time face sanctions like binding orders, or even fines, to change their practices.

Added Powers for Regulators

That would give regulators additional powers. Now a bank's poor record in this area can affect whether regulators will permit bank acquisitions or mergers, and banks that fail are vulnerable to legal challenges by community groups or regulators.

The proposal is the most important modification to equal lending enforcement since 1977, when Congress passed the Community Reinvestment Act. That law was designed to force banks to make loans to individuals, businesses and groups in neighborhoods that many of the nation's larger financial institutions had shunned.

While the law has been effective in some respects, there were growing complaints from consumer groups that the method for evaluating a bank's lending activity was too lenient. While it is difficult to measure how much discrimination has been going on, numerous studies, including one from bank regulators, reported that minority applicants for home mortgages, for instance, were denied loans at a higher rate than whites even when other social factors were considered.

Banks did not like the law and its regulations because they required excessive paperwork.

Under the newly proposed standards, regulators would evaluate banks

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International Report Card Shows U.S. Schools Work

By WILLIAM CELIS 3d

Contrary to the grim portrait often painted of American education, a new report finds that compared with other industrialized nations, the United States does a reasonably good job of educating its citizens and preparing them for work.

The report, issued yesterday by the Organization for Economic Cooperation and Development, based in Paris, indicated that American students lag only slightly behind their counterparts around the world in math and science and that a higher than average percentage of American students get college educations.

The United States spends more per student on higher education each year than any other nation — about $13,000 compared with the average of $6,000 to $7,000 for the 24 countries surveyed. Thirty-six percent of Americans between the ages of 25 and 64 have college degrees — among the highest percentage in the world. In addition, the percentage of women enrolled in colleges or universities is higher in the United States than in other countries.

More Private Support

At a time when all industrialized nations are grappling with how to train a workforce for the future, the report calls for stronger ties between employers and educational systems. It notes in particular "the need for sound initial education" for "better integration between academic and vocational studies" and for "an adult training system adapted to the needs of employers, workers and nonworkers."

Although American colleges and universities are improving their efforts to prepare students for the workplace, much of the real training is being done by two-year community colleges, whose long tradition of vocational education is being strengthened through Federal, state and local grants.

The report offers a statistical portrait of American education that is far more favorable than several studies undertaken in recent years by American educators. Much of their research has indicated that American students lag their counterparts elsewhere in core academic subjects and that scores on standardized college entrance exams have been sliding in recent years.

Scores Are Stabilizing

But in recent years, the free fall in entrance exams has stopped, and scores in math and science have also stabilized. The study released today finds, for example, that American students score above average in reading comprehension and about average in science.

The study also showed that, despite criticism of early childhood education in the United States, 90.2 percent of all 5-year-olds attend public or private early childhood programs, a percentage that places the country among the top five nations surveyed out of 24.

Describing the report as "full of pluses and minuses," Education Secretary Richard W. Riley said yesterday that the study "illustrates why the American habit of being comfortable with just being average comes up short in the new global economic environment." Mr. Riley said the report "confirms why there is an urgent need to press ahead in our con-

Continued on Page A8, Column 1

Video Game Industry to Issue Ratings in Response to Critics

4 By EDMUND L. ANDREWS
Special to The New York Times

WASHINGTON, Dec. 8 — Amid growing concern about blood and sex in home video games, and eager to avoid Government intervention, several of the biggest game companies and retailers in the country will announce plans tomorrow to establish an industry-controlled ratings board similar to the one used for rating movies.

The effort is being led largely by Sega Enterprises, the second-largest video game company in the United States. It includes Nintendo of America, the biggest company, and retailers like Sears and Toys "R" Us.

The plan is an attempt to head off legislation that would establish a stricter rating system. A Senate hearing on that legislation is also scheduled for tomorrow.

The industry's proposal would create a board that would design a rating system under which games would be rated before they went to market. Participating manufacturers would label the games and retailers would try to enforce the guidelines.

Details on how the board would be constituted and how a ratings system would be enforced at the retail level have not been decided.

Though the companies have not decided how the ratings would be designed, they could resemble a system that Sega recently imposed on its games.

Sega gives games one of three labels: "Mature Audiences — 17," on those that may not be appropriate for children younger than 17; "Mature Audiences — 13;" and "General Audiences."

But Senator Joseph Lieberman, a Connecticut Democrat who has proposed legislation that would require an industry-led rating system, said the

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Russians Survey Crossroads Of Business and the Ballot

5 By STEVEN ERLANGER
Special to The New York Times

TOMSK, Russia, Dec. 8 — This is Russia's first modern political campaign, and here in freezing Tomsk, 1,800 miles from Moscow, Russians are discovering the political power of big business.

Thus huge Siberian province, larger than Germany but with only a million people, is dominated by oil, timber and military industries, which in the past were largely inseparable from the Soviet Communist Party.

With the party broken, the desire of big industry to have its own candidates in Russia's new parliament, which is to be elected on Sunday, is hardly surprising. What is more striking is the political alliance these old Communist barons have formed with new private business.

Having It Both Ways

The managers of these big businesses, many still under strong state influence, do not oppose the essence of market reforms. Nor are they against getting rich.

But they want the transition to be slower and safer, and they want the Government to play a bigger role, through investment, credit, purchases and less stringent tax policies.

If their candidates do well, that is likely to slow economic change and prolong inflation.

The race in Tomsk also shows the dominance of well-known local personalities, who tend to be more conservative and to run as independents.

Some 45 of the largest enterprises in Tomsk, including the Polyus electronics works; Roltom, a big ball-bearing factory, and Tomsknefti, the main oil company, have openly backed three independent candidates to represent their interests.

Two are powerful local politicians: Daniil P. Dobzhinsky, 46, a deputy in the former Supreme Soviet who remained in the Parliament building when it was shelled two months ago, and Viktor M. Kress, 45, the provincial Governor, who rose through the party but supported President Boris N. Yeltsin in that struggle.

The third candidate, however, Sergei P. Ilyin, an eager and voluble 33, is the director of a new wholly private company, Invent, which works in computers, wood and metal and has a small bank. His inclusion on the slate, for a lower-house seat, is a gesture toward the private companies.

"I'm not sure who is using whom," Mr. Ilyin said, brushing down his double-breasted maroon blazer. "We've

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Library Renewals

Private citizens are remaking a public institution.

By Elizabeth Larson

FOR BOOK LOVERS IN MERCED COUNTY, CALIFORNIA, THE WINTER holidays didn't get off to a merry start last year. Two days before Thanksgiving, the Merced County Board of Supervisors voted to shut down all 19 libraries in the county system by New Year's Day. The move came after the county lost $11.9 million in state aid as a result of California's struggle to balance its budget.

Across the country, tight budgets are leading to dramatic cuts in funding for public libraries. So many libraries have closed their doors in recent years that the American Library Association says it's no longer able to keep track of them all. The trend began in 1990, when officials in Worcester, Massachusetts, a city of 170,000, closed all six library branches. Cutbacks and closures spread quickly as other towns and cities succumbed to a weakened economy.

The Old Mill Green Public Library in Bridgeport, Connecticut, announced it would be open only on Thursdays. Bookmobiles in Fairfax, Virginia, and Syracuse, New York, were eliminated. And in Los Angeles, the county library system was threatened with the closure of about 50 of its 87 branches. New York librarians began an "Index of Misery" to record closures in the state.

Public libraries that can afford to remain open are finding their collections becoming dated, as money for new books and magazine subscriptions disappears. The materials budget for the Nevada State Library & Archives went from $153,000 in 1992 to zero in 1993. Other states have also eliminated their book budgets and have seen magazine-subscription budgets slashed by more than 50 percent. In Phoenix, library staff members were recently asked to take furloughs in order to maintain the book budget.

These funding cuts have accelerated a process that has been going on for much of this century: Libraries are losing their focus. Scrambling to justify their existence, they are taking on roles that have little or nothing to do with their central mission. Bernard Vavrek of Clarion University's Center for the Study of Rural Librarianship has said that public libraries should consider offering services such as shelter for the homeless and day care for children and the elderly. Public libraries in Seattle, Philadelphia, and Greensboro, North Carolina, already offer latchkey programs. And 39 percent of the respondents in a national telephone survey recently conducted by the library school at the University of Illinois, Urbana, said public libraries should offer safe places for children to stay after school.

But social services do not mix very well with a public library's other purposes. When the Los Angeles County Parks and Recreation Department eliminated local after-school programs in 1992, 40 or so middle- and high-school students adopted the Culver City Library as their after-school hangout. While some kids try

MIGUEL DECAMPOS

to study, says head librarian Josie Zoretich, most are too rambunctious to sit still and keep quiet. "It's very difficult," says Zoretich. "We monitor them, we walk around. And that's the only thing we've found that works. But it's not the staff's job either. We're not recreation leaders, and we have still a whole public to serve." Memos at the circulation desk remind parents that "the library is not an alternative child care facility."

Amid the gloom, however, citizens in a few scattered towns are demonstrating another way to make libraries relevant. They have managed to create and sustain libraries without government money, reconnecting these institutions with the people they are supposed to serve. These private alternatives address both the fiscal and identity crises public libraries now face.

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Citizens in a few towns have managed to create and sustain libraries without government money, reconnecting these institutions with the people they are supposed to serve. These private alternatives address the fiscal and identity crises public libraries now face.

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PALM SPRINGS, CALIFORNIA, HAS A REPutation as a desert oasis for the very rich, but the vacant storefronts along the main street tell another story. Palm Springs hasn't escaped the hard times facing the Golden State, nor have its public libraries. When it came time to close the Welwood Murray Memorial Library, however, the people of Palm Springs took charge. The result was one of this country's first privatized libraries.

The city planned to sell the site of the library to a developer, but the land had been donated to the city in 1938 by the Murray family on the condition that it be used for a library. Public-library officials and the Save the WMML Committee, allied with City Council member and "reinventing government" advocate Deyna Hodges, successfully challenged the sale in court.

By the end of June 1992, city officials had removed every last book from the library and closed its doors as a public institution. The next day, the library began its new life as a private volunteer enterprise, run by WMML, a newly incorporated nonprofit foundation, and overseen by a board of seven trustees. "They left us with nothing," says trustee Jeanette Hardenburg, sitting near the glass cases of Indian jewelry and pottery now at the library's entrance. "And the building itself hadn't been properly maintained for years. Volunteers did everything you see here—refinished the ceiling, donated display cases."

And the citizens of Palm Springs gave books by the thousands; the library now has more than 8,000 volumes in its collection—5,000 more than the public library had—and more arrive every day. "Every book in our collection was given to us by the people of Palm Springs," Hardenburg says. The library plans to develop an extensive collection of documents and books, including rare and first editions, on the history of California and the West; trustee Barbara Moore, a Palm Springs native with an interest in the region's history, has already given several hundred of her own books as a permanent loan to begin the collection. Jeremy Crocker, president of the board of trustees, credits the "goodheartedness and friendliness" of the Palms Springs people with keeping the library alive.

Citizens in other towns may follow the Palm Springs model, taking their libraries private to save them. When it looked as if Grants Pass, Oregon, might be forced to close the three branches of its public library, Dan Huberty, a building contractor who had moved to Oregon for his retirement, spearheaded a grass-roots effort to privatize the library. Although city officials initially gave his idea a hearing, resistance from the library unions doomed the proposal. (The city ultimately found money to keep the library open.) And in Santa Cruz County, California, members of the Friends of the Library group are looking into privatization as a possible alternative to the threatened closure of the county's public-library system.

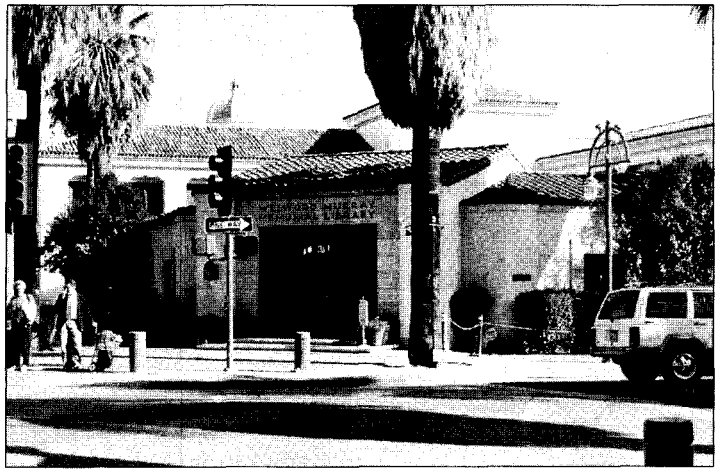
For advice, newly privatized libraries could look to Sedona, Arizona—home of world-class artists, New Age worshippers, red-rock cliffs, and a thriving free private library. Back in 1958, Sedona residents decided the infrequent visits from a bookmobile that began its journey in Phoenix, some 100 miles away, just weren't enough. The private Sedona Public Library was up and running within months. A Friends of the Library group was soon organized to raise funds for operating costs and to oversee the library's administration. The group's fund-raising efforts have been so successful that five of the librarian staff positions are now salaried.

The community spirit that made this library possible hasn't ebbed over the years. Although the library now receives some support from the city and county to cover basic operating costs, the library's new $3.2-million building is being constructed solely with donations from residents and free or discounted labor and materials from local businesses. The 4.2-acre plot of land was purchased with a bequest from a late Sedona resident. An early morning visitor to the building, scheduled to open in early 1994, might see a solitary carpenter high up on the scaffolding patiently staining the beams that span the cathedral ceiling, or craftsmen putting the finishing touches on the stone fireplace in the reading lounge. Signs at the site's entrance proclaim "See History in the Making!" and welcome visitors to take a tour of the magnificient building with Supervisor Steve Miller. "The magnitude of what we are doing without government funding is almost unbelievable," librarian Joan Duke told *Sedona Magazine*.

WHEN IT COMES TO STARTING A PRIVATE LIBRARY, SUCH ENTHUSIasm is more important than the economic status of the community. Redford, Texas, population 200, lies between ridges of volcanic rock some 200 miles southeast of El Paso in Presidio County. Life here, just north of the Mexican border, isn't easy. The county's median family income hovers around $13,000 (the national median is about $30,000), and most of Redford's inhab-

itants are farmers eking a living out of the dry earth. The town's private library was founded in 1979 by Lucia Rede Madrid, a former schoolteacher. The original collection of just 25 books was housed on a few shelves in her husband's general store. The collection eventually expanded to fill the store, which is now a library with more than 15,000 volumes—or 75 books for each resident. In April 1990 Madrid went to the White House to receive a presidential medal honoring her work in founding and running the library.

Point Arena, a town of about 500 people several hours up the coast from San Francisco, opened its private Coast Community Library in 1990, even as public libraries elsewhere were slashing their hours or shutting their doors for good. Local carpenters built the card catalog and tables, and other volunteers lent a hand with the renovation of a small office building rented to the library for $1.00 a year by a retired professor. Residents, whose median annual family income is $21,250, raised money to open the library by selling everything from vegetables to magazines.



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Citizens in Palm Springs, California, took the city to court for the right to take over operation of this historic downtown building as a private library.

The Coast Community Library's book budget is supplemented heavily by book donations: Patrons have given everything from a single volume to an entire estate. Volunteer library staffer Laura Schatzberg says her love of books and her "disappointment when I moved to Point Arena in finding out that there was no library here" led her to devote many spare hours to the library. It is the dedication of Schatzberg and the dozens of other citizens like her that keeps this private library open six days a week and two evenings—more than many public libraries are open nowadays.

"We're very proud of this little library," Elise Wainscott, a former librarian who is a fund-raiser for the Coast Community Library, told the *Christian Science Monitor* shortly after the library opened. "It demonstrates what can be done by people eager and determined to have reading material available to everyone in the community without charge. We have received no government funds, we're out of debt, and we've started a building fund."

Private libraries are not unique in seeking voluntary donations. About 10 percent of public libraries have fund-raising offices, according to the American Library Association. When the New York Public Library started its Adopt-a-Branch program in 1991, it immediately received two $500,000 donations for library branches in the Bronx. After fire destroyed the interior and damaged most books at the Los Angeles Central Library in 1986, the Save the Books project raised $10 million in donations, including $2 million from the John Paul Getty Trust and more than $3 million from ARCO and a telethon campaign. Developer Robert Maguire gave the city $28.2 million to help finance the building's restoration. Public libraries in smaller cities are also taking advantage of private money: In 1992 the Tucson-Pima Library in Tucson, Arizona, raised $9,000, with most donations in the $10-to-$25 range, to buy children's books and pay for interior improvements.

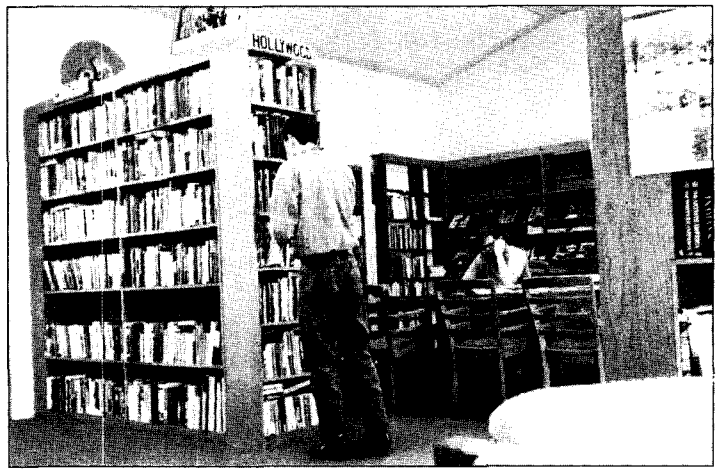
But while private libraries will accept all the voluntary help they can get, public libraries worry that their fund-raising programs will be *too* successful, prompting government to give them fewer tax dollars. Anxious librarians point to an endowment fund established at the Dallas Public Library that raised private funds, prompting the city to reduce the library's share of taxpayers' money by that amount. "It is great to get this [private] money, but there is a danger, too," Edwin Holmgren, director of branch services at the New York Public Library, told the *Library Journal*. "Some politicians will then try to take away public funding. ...But any private money given to us doesn't relieve the government of its responsibilities."

SUPPORTERS OF GOVERNMENT FUNDING FOR LIBRARIES LIKE TO CITE what 1991 ALA president Patricia Glass Schuman calls Benjamin Franklin's "novel idea, the free public library." Yet the library Franklin established in 1731 was neither free nor public. Franklin's Philadelphia Library was essentially a private club, or what historians call a subscription library. Franklin sought out 50 charter members, mostly tradesmen, willing to pay 40 shillings each for the purchase of books to begin the library collection. Although Franklin's idea was a novel one for the colonists, Franklin was not the first to start a subscription library. They were popular in Europe at the time, and a subscription library was operating in Edinburgh as early as 1725.

Nineteenth-century libraries, both here and abroad, were usually run by church leaders or philanthropists and were often subscription libraries. The annual dues were low and were waived for those who could not afford them. In towns without full-fledged libraries, booksellers and other merchants often filled the void. British booksellers as early as the 18th century offered books for loan, and shopkeepers operated small circulating libraries alongside shelves of liquor, shoebuckles, and hats. Although several thousand rental libraries were still operating in the United States as late as the 1960s, Harvard University urban historian Edward Banfield reports, public libraries eventually drove the commercial book lenders and many subscription libraries out of business.

One of the oldest subscription libraries keeping Ben Franklin's idea alive is the Salem Athenaeum in Massachusetts. Founded in 1760 by 30 prominent townsmen, the athenaeum welcomes all to browse among its shelves, but only the 100 shareholders (individuals paying $250 each) and subscribers may check out books or magazines. The annual subscription fee is just $35, so for less than the cost of the average hardcover book (which is $40 today, up from $19 in 1977), you can join this private library.

At least 17 other subscription libraries are still open in Boston, Newport, and other cities. New York City is home to two thriving subscription libraries, both of which have recently seen increases in subscribers: The New York Society Library (founded in 1754) has about 2,500 household memberships at $125 a year (discounts are available for students and teachers), and the Library of the General Society of Mechanics and Tradesmen (founded in 1820) has about 700 members paying $35 to $50 a year. The persistence of such organizations, in spite of government-supported competition, suggests that libraries will survive wherever demand justifies them.



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A view into the reading room: The privatized Palm Springs library already has more than 8,000 books on its shelves, some 5,000 more than the public library had.

MIGUEL DECAMPOS

IN ARGUING THAT GOVERNMENT HAS A RESPONSIBILITY TO FUND libraries, defenders of the current system usually claim that libraries benefit society as a whole by promoting democracy, uplift, and literacy. They also maintain that only public operation can protect library patrons from censorship. But these high-minded goals have very little to do with how public libraries actually work or the reasons people use them.

Without public libraries, warn Anita and Herbert Schiller in a 1986 *Nation* article, "democratic governance itself is an endangered species." Free, government-run libraries provide equal access to information, they argue, thereby ensuring an informed electorate. More broadly, public libraries (unlike academic libraries) aim not so much to preserve man's wisdom as to improve him. The terminology has changed—in the 19th century it was called *uplift*, and today it's *empowerment*—but the goal remains the same. The problem is, you can't improve people without their cooperation. And for every town like Point Arena or Palm Springs, there are others where, despite a few vocal activists, most residents don't notice or care whether the local library is open or closed.

Libraries in Massachusetts have probably taken the most severe budget cuts in the country in recent years, but Bonnie O'Brien, president of the Massachusetts Public Library Association, told *City & State*, "For whatever reason, the municipalities and the public don't support libraries like they used to." Speaking on a local radio show in Los Angeles, library activist Maria Stone said her group, Committee to Save Our Libraries, was sending letters to community members "so that we get rid of a little bit of the apathy that we see toward the libraries." Despite the millions of dollars spent on library-awareness campaigns, only a third of adult Americans have public-library cards.

Apathy toward libraries is not new. Historian D.W. Davies writes in *Public Libraries as Culture and Social Centers* that early librarians believed "there were vast numbers yearning to read and acquire culture." But "in the days of the voluntary [library] societies there was a corrective to this notion. Uplift societies and libraries founded upon the misconception [often] discovered that there was not a significant number of people interested to allow the institution to continue."

This was not the case everywhere, of course, as such centuries-old institutions as the Salem Athenaeum and the New York Society Library show. But today tax dollars provide equal support for popular and unpopular libraries alike.

Even when a library is popular, that doesn't mean it is improving people's minds or making them better citizens. As anyone who has worked in a suburban public library can attest, the most popular titles tend to be the least edifying: best sellers by Danielle Steele and Robert Ludlum, John Grisham and Stephen King. Commenting on a rise in the use of Los Angeles County's libraries during the recession, library marketing director Philip Fleming told the *Los Angeles Times*: "People are rediscovering the library, looking for free entertainment."

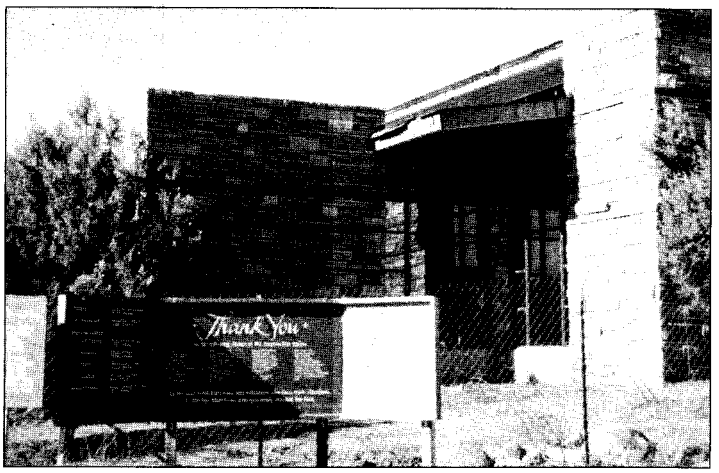
At the Matteson, Illinois, public library, Super Mario Brothers III and over 130 other Nintendo computer games are on the shelves. The children's librarian told the *Chicago Tribune* she has seen no correlation between use of the games and circulation of books. An ALA fact sheet boasts of the "ever-increasing variety of materials" public librarians offer for loan, including videotapes, compact disks, toys, puzzles, sewing machines, guitars, chess games, cameras, telescopes, and dog-grooming kits.

And the people who take advantage of all these services are not exactly needy. According to a 1990 Equifax-Harris survey comparing people who use public libraries to those who don't, public-library patrons are 87 percent more likely to attend the opera, ballet, or symphony; 85 percent more likely to have a personal computer at home; and 81 percent more likely to belong to a voluntary organization. These characteristics place public-library users solidly in the middle class. "Certainly no one believes that the library is now of any service to the lower class," writes

Harvard's Banfield. "By and large, libraries are of the middle class and for the middle class."

Closely associated with the uplift rationale for public libraries is the argument that they increase literacy. "Librarians must assume a front-line position in the battle against illiteracy, a battle which requires inspired troops if any battle ever did," said 1990 ALA president Richard Dougherty in his inaugural address. "We must find a way to insure that all of our children learn to read, and to read well." Of course, this is what the public schools are supposed to be doing. When the National Assessment of Educational Progress finds that only 10 percent of 13-year-olds are "adept" readers and less than 1 percent are "advanced," we should look to the schools, not the libraries, for an explanation.

Supporters of public libraries also argue that government control ensures that a wide range of reading material is available. "The real strength of the public library is that it's an open forum for ideas, where every idea has equal viability and the opportunity to be read about, and learned about, and heard," Carolyn Noah of the Central Massachusetts Regional Library System said on a Boston radio show last year. "But a private library, where censorship can be unlimited, is a completely different matter."



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Sedona's residents have donated all the materials, money, and labor for the construction of their new $3.2-million private library building.

The reality is very nearly the opposite: Censorship is more of a threat in public libraries than in private libraries. In the last 40 years, virtually all of the cases in which libraries removed books for political reasons involved public libraries. "That couldn't happen in this library," declares Gann Carter, a trustee at the private Palm Springs library. Board president Jeremy Crocker explains: "We're subject to the same market [forces] as the public libraries. If we don't have the books, people won't come." Laura Schatzberg of the Coast Community Library says flatly, "We do not censor books." She adds that books are removed from the shelves and put into storage only if they haven't been checked out in several years and the library needs the space.

At a private institution, a censorious librarian is accountable to the board of directors and the community. The financial lifeblood of a private library flows directly from local citizens through their money and volunteer time, rather than indirectly through taxes. Popular objections to a librarian who began censoring books would be felt immediately through lost donations and customers.

In fact, the main advantage of private libraries is their responsiveness to the needs and wants of users. By contrast, public funding through taxes isolates the library from the community. And if a community isn't interested in its library, all the inspiring rhetoric about enriching people's lives won't mean a thing.

Andrew Carnegie learned this lesson around the turn of the century. Carnegie had immigrated to the United States from Scotland at age 13 and built a huge fortune as the owner of Carnegie Steel. After retiring some 50 years later, he devoted the rest of his life to philanthropy. Motivated by the Progressive notion of uplifting people by providing them with free books, he donated more than $40 million ($324 million in 1992 dollars) between 1886 and 1919 for the construction of almost 1,700 libraries across the United States. The gifts came with one major condition: Each town had to promise to support its library with annual taxes equal to 10 percent of Carnegie's original investment. But the taxpayers in many towns refused to uphold their half of the arrangement—often within the first year after their libraries opened.

The experience of one Texas town, as related by historian D.W. Davies, was typical. After the citizens lost interest in the library, tramps began calling it home. The books that Carnegie thought would help people better themselves were burned for heat. The shelves went up in flames next. Left with the library's ravaged interior, the town council decided to auction the building. The only taker was a barber who wanted it for his shop. After a council member observed that the town might have to give the Carnegie Corp. any money raised from the sale, the council called off the auction and boarded up the building. Similar events happened in so many towns that, after an investigation lasting several years, the Carnegie Corp. decided that lack of interest rather than lack of money was the problem. In November 1919, it stopped the donations.

Carnegie was not the only philanthropist to overestimate the demand for libraries during the last two centuries. Davies writes: "Those interested in the establishment of popular libraries were naturally people interested in books. When they polled their friends and acquaintances, people of similar tastes, they were delighted to find that large numbers of them were also interested in books. In this way the belief was created that a considerable segment of the population was afflicted with bibliophilia."

This sort of enthusiasm can lead to failures like the many unsuccessful Carnegie libraries, but it can also sustain such institutions as Sedona's free private library. "Everyone saw the need for a library, and since it wasn't going to cost the taxpayers anything, there wasn't anything to complain about," Gene Ash, one of the library's founders, told *Sedona Magazine* in 1992. "After all, who doesn't like books and magazines and information? If they don't, they sure are a sorry lot." ®

ELIZABETH LARSON

Elizabeth Larson is REASON*'s production editor.*

Tactical Tragedies

The lone gunman theory of firearm regulation

By Jacob Sullum

AP/WIDE WORLD PHOTOS

ON TUESDAY EVENING, DECEMBER 7, COLIN FERGUSON SAT WITH WEARY COMMUTERS IN THE THIRD car of the 5:33 train from Manhattan to Hicksville, Long Island. About 6:10 p.m., as the train was approaching the Merillon Avenue station in Garden City, he drew a 9-mm pistol, stood up, and began firing. Ferguson shot 23 people, fatally wounding six, before three passengers managed to subdue him.

The response to the Long Island shooting spree illustrates how gun-control policy is driven by dramatic, isolated events that attract wide attention precisely because they are so unusual. Politicians and activists use sensational acts of violence to build support for gun-control measures and generate an atmosphere of hysteria that discourages critical reflection.

President Bill Clinton was quick to take political advantage of what he called a "terrible human tragedy." The next day, during a luncheon with reporters, he cited Ferguson's rampage as evidence of the need for stricter gun control. Specifically, Clinton said he was sympathetic to the idea of licensing all gun owners under standards set by the federal government, a proposal he had discussed a few days before in an interview with the *Los Angeles Times*. He also reiterated his support for legislation introduced by Sen. Dianne Feinstein (D-Calif.) that would ban 19 "assault weapons," along with ammunition clips that hold more than 10 rounds.

Only one of these measures—banning large-capacity magazines—had any connection to Ferguson's crime. Nassau County police say Ferguson was carrying four clips, each of which held 15 rounds. He emptied one, reloaded, emptied the second, and was switching to the third when a few brave passengers overpowered him. If each of the clips had held only 10 cartridges, Clinton argued, Ferguson might have fired fewer shots, and some of his victims might have been spared. That's assuming, of course, that Ferguson would not have compensated for the lower capacity by bringing an extra gun, by taping magazines together so they could be switched more quickly, or by choosing a higher-caliber weapon—in which case he might have killed more people, even if he fired fewer shots.

Clinton's other suggestions, although ostensibly prompted by the shootings on the Long Island Rail Road, had nothing to do with the facts of the incident. Ferguson's gun, a Ruger P-89 semiautomatic, is not covered by Feinstein's legislation or by any existing "assault weapon" ban. And Ferguson picked up the gun in California seven months before the crime, after a background check and a 15-day waiting period. Under the sort of licensing scheme envisioned by Clinton, he would have had to undergo firearms training as well. There's no reason to believe the additional requirement would have deterred him. Indeed, it might have improved his aim.

The response to Ferguson's shooting spree illustrates once again how gun-control policy is driven by dramatic, isolated events that attract wide attention precisely because they are so unusual. Politicians and activists use mass murders, assassinations, and other sensational acts of violence to build support for gun-control measures and generate an atmosphere of hysteria that discourages critical reflection. Not surprisingly, the resulting laws often fail to address the very incidents that *inspire them.* And they do little or nothing about ordinary crime, which represents a much bigger threat to the average American.

The week before the murders on the train to Hicksville, Clinton signed into law the Brady Bill, which requires a buyer to wait five working days before taking possession of a handgun. The waiting period is intended to allow the authorities to verify that the buyer is not a felon or otherwise disqualified to own a firearm under federal law. Supporters of the measure have also argued that it gives people intent on violence time to "cool off."

The main impetus for the federal waiting period was John Hinckley's attempted assassination of President Ronald Reagan, in which White House Press Secretary James Brady was seriously injured. Since the 1981 attack, Brady's wife, Sarah, who heads Handgun Control Inc., has repeatedly implied that a waiting period would have stopped Hinckley from shooting the president and her husband. "Had a waiting period been in effect seven years ago," she told *USA Today* in 1988, "John Hinckley would not have had the opportunity to buy the gun he used."

But as gun-control scholar David Kopel has shown, there is very little foundation for this belief. Hinckley had no felony convictions and no public record of mental illness. He presented a Texas driver's license to the Dallas gun dealer who sold him the .22-caliber revolver that he used in the assassination attempt, and it appears that Hinckley was indeed a resident of the state at the time, as required by federal law. Since he purchased the weapon months before he shot the president, a cooling-off period would not have helped. Finally, even if Hinckley had been prevented from buying the .22, he could have used one of the handguns he already owned. These included a .38 special that he had legally purchased in Colorado, which probably would have killed the president and his press secretary rather than injuring them.

In Colin Ferguson's case, we don't have to speculate about whether a background check would have stopped him; we know it didn't. Nor did it stop James E. Pough, who killed eight people at a Jacksonville, Florida, loan office in 1990. Pough was not listed as a felon, so he had no trouble buying the .30-caliber rifle and .38-caliber revolver he used in the attack. Gian Luigi Ferri, who killed eight people in a San Francisco office building last July, also cleared a background check when he bought two 9-mm pistols in Las Vegas a few months before his shooting spree.

JUST AS JOHN HINCKLEY GAVE US THE BRADY LAW, Patrick Edward Purdy gave us the recent spate of "assault weapon" bans. In 1989 Purdy attacked a Stockton, California, elementary school, armed with a Chinese-

made, semiautomatic rifle that resembles the Russian-made AK-47. He shot a teacher and 34 students, killing five of them. The massacre led to "assault weapon" bans in California and three other states, and it boosted support for similar legislation at the federal level.

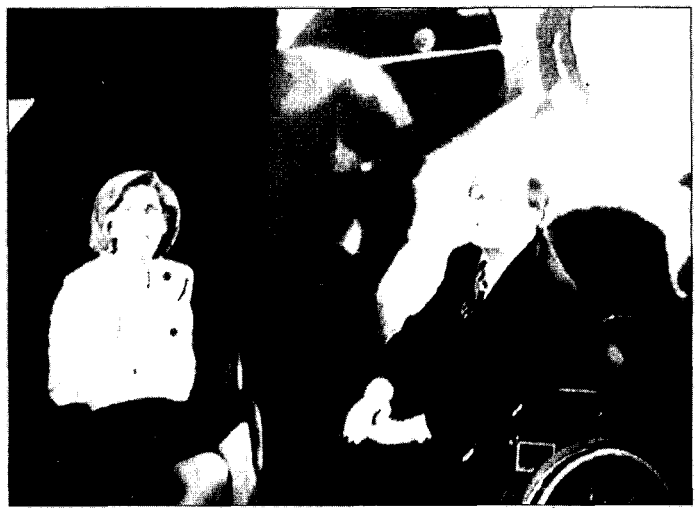
The definition of *assault weapon*, a term invented by the gun-control lobby, has never been clear. Legislators who go after them tend to pick out weapons that *look* scary, so the banned firearms are not necessarily any more dangerous than the ones that remain legal; in fact, they tend to be of intermediate caliber, so they are less powerful than many shotguns, hunting rifles, and handguns. This haphazard process can have embarrassing results: The original version of California's "assault weapon" law did not even cover Purdy's weapon, which had to be added to the list later.

Supporters of these bans either do not understand or purposely obscure the distinction between automatic weapons, which fire rounds continuously, and semiautomatic weapons, which fire once for each trigger pull. Automatic weapons (machine guns), which include assault *rifles* designed for military use, are already strictly controlled by federal law. So-called assault *weapons* are all semiautomatic, so they fire no more rapidly than hunting rifles or revolvers. Press accounts frequently imply that "assault weapons" are machine guns—for example, by calling Purdy's gun "an AK-47 assault rifle."

This confusion is tied to another misconception: that the rate of fire is a crucial factor in mass murders. Referring to the shootings on the Long Island Rail Road, for example, Clinton said, "Apparently, the rapid fire of the gun was something that almost paralyzed all the people on the car." Yet police say Ferguson emptied two 15-round clips over a period of three minutes, so he was firing at an average rate of about one round every six seconds, far below the gun's capability. James Pough used an "assault weapon" during his rampage in Jacksonville, but a survivor told *The New York Times*: "It wasn't random and it wasn't continuous. It wasn't pandemonium and at the end we didn't know it was over, because there were silences all through the shooting." These examples suggest that it's a gunman's unpredictability, rather than his speed, that paralyzes his victims.

As it happens, the murderers responsible for the worst shooting sprees in U.S. history managed just fine without "assault weapons." In 1984 James Huberty, armed with a shotgun, a pistol, and a hunting rifle, killed 20 people at a McDonald's in San Ysidro, California. In 1991 George Jo Hennard killed 22 people at a cafeteria in Killeen, Texas, using two ordinary pistols, a Glock and a Luger.

After the Killeen massacre, Sarah Brady and other gun-control advocates argued that it showed the need for a federal ban on—you guessed it—assault weapons. Brady wrote in the *Los Angeles Times*: "Is it going to take a massacre in every congressional district for enough members to find the backbone to put public safety ahead of the profits of the assault-weapon lobby?" The day after the massacre, which was also the day of a House vote on the "assault weapon" legislation, *The Washington Post* editorialized: "Maybe just a few members of Congress at least will think beyond the standard, obvious and empty comment about a 'senseless tragedy' and reflect instead on the senseless, gross national arsenal of firearms everywhere across the land. Today, hours after the bodies fell in Texas, the clerk will call the roll, and a lot more people will be watching."



PAUL HOSEFROS/NEW YORK TIMES PICTURES

Sarah Brady and her husband, Jim, implied—with little foundation—that a federal waiting period would have stopped John Hinckley.

Chet Edwards, Killeen's representative in Congress, did reverse his opposition to the proposed ban, even though it did not deal with the guns Hennard had used. "In the past, I have been opposed to gun control," said Edwards, a moderate Democrat. "I still am...but today is different. Today, I am not talking about statistics and charts and graphs and constitutional, esoteric issues. I am talking about 22 people—preachers, soldiers, mothers, fathers, teachers—who were killed brutally by this murderer." Edwards's comments reflect the perception that rational arguments are unseemly in the wake of such a tragedy—a notion that supporters of gun control often use to their advantage.

Thomas F. McDermott, an attorney who was wounded in the shoulder during Colin Ferguson's shooting spree, afterward wrote an op-ed piece for *The New York Times* in which he insisted: "The issue we must focus on is achieving true, enforceable gun control. Whether this can be accomplished by constitutional amendment, an expanded Brady law, gun licensing or a combination of these approaches, there is no room for moderation, nor for prolonged discussion and delay. There must be an immediate ban on the kind of automatic [sic] weapon that mowed down the riders on the 5:33."

This sort of rhetoric, calling for immediate action in

If a significant number of law-abiding people made a habit of carrying guns in public, they could create a general deterrent to crime. Citizens carrying guns could also cut short rampages such as Colin Ferguson's, during which the victims tend to lie low, leaving the gunman a conspicuous target.

response to a perceived crisis, can be very effective. Consider President Lyndon Johnson's successful push for a federal gun-control law following the assassinations of Martin Luther King and Robert Kennedy in 1968. On June 6, the very day that Kennedy died in a Los Angeles hospital, the president delivered an emotional message to Congress: "Today the nation cries out to the conscience of the Congress. Criminal violence from the muzzle of a gun has once again brought heartbreak to America. Surely this must be clear beyond question: The hour has come for the Congress to enact a strong and effective gun control law governing the full range of lethal weapons."

In the Gun Control Act of 1968, Johnson got just about everything he asked for, including a ban on possession of firearms by felons, people judged mentally incompetent, and several other categories of undesirables; a ban on firearm sales to out-of-state purchasers (except for licensed dealers); and a ban on the import of certain cheap handguns and rifles (perceived as the favored weapons of rioters). But although the King and Kennedy assassinations had a great deal to do with its passage, the law did not affect the weapons used by James Earl Ray (a .30-06 hunting rifle) or Sirhan Sirhan (a .22-caliber pistol). It did ban mail-order firearms such as the rifle used to shoot John F. Kennedy in 1963, but Lee Harvey Oswald could easily have bought the same weapon in a gun shop.

As much as gun control fails to stop assassins and mass murderers, it fails even more dramatically to protect us from muggers, rapists, and burglars. Licenses and waiting periods wll never have a significant effect on ordinary criminals, since the vast majority of them do not get their weapons over the counter at gun stores. (Those who do can always have someone without a felony record buy guns for them.) And despite the impression created by the gun-control lobby, "assault weapons" are very rarely used in crimes. Nor is it likely that many criminals are deterred by restrictions on interstate transfers.

But there is a policy that could provide significant protection against lunatics with guns and ordinary criminals alike. Clinton unwittingly suggested it when he said that driver licensing could be a model for gun licensing. Taken seriously, this would mean that you would need a license to carry a gun in public but not to own one or use it on private property. (After all, you don't need a license to own a car or operate it in your driveway.) Once you met the specific requirements for a license—say, a clean record and completion of a safety course—the government would have to issue you one. In other words, every state would have a liberal carry-permit system similar to Florida's. Florida's homicide rate fell steadily after the state adopted this system, from 36 percent above the national average in 1986 to about 4 percent below in 1991.

If a significant number of law-abiding people made a habit of carrying guns in public, they could create a general deterrent to crime. (See "Equal Protection," October 1993.) In *Armed and Considered Dangerous: A Survey of Felons and Their Firearms*, sociologists James D. Wright and Peter H. Rossi report that most felons worry more about encountering armed victims than about getting arrested. This fear has a real impact on criminal behavior. Last December, two teenagers armed with a sawed-off shotgun accosted Christine Schweiger, a 35-year-old accountant, as she and her 10-year-old daughter left a Popeye's fried-chicken restaurant in Milwaukee. After Schweiger told them she had no money, one of the muggers blew her head off. "In explaining his crime," the *Chicago Tribune* reported, "the 16-year-old told police that Schweiger was picked because she was one of the few white people in the restaurant. The boys, both black, told detectives that they had at first considered robbing a black woman, but figured a white person would be less likely to be carrying a gun."

Citizens carrying guns could also cut short rampages such as Colin Ferguson's, during which the victims tend to lie low, leaving the gunman a conspicuous target. When George Will suggested this possibility to the police chiefs of St. Louis and Los Angeles on the December 12 *This Week with David Brinkley*, they rejected the notion out of hand. "I think that's patently ludicrous," said St. Louis Police Chief Clarence Harmon.

Thomas Terry would probably disagree. In December 1991, two armed robbers entered a Shoney's restaurant in Anniston, Alabama, taking over 20 hostages. Terry, armed with a .45-caliber pistol that he was licensed to carry, hid under a table. After he was spotted, Terry shot and killed both robbers. He suffered a minor wound, but no one else was injured.

Suzanna Gratia was not so lucky. Two months before the aborted robbery in Anniston, she was one of the patrons at the cafeteria in Killeen, Texas, where George Hennard killed 22 people, including her parents. Gratia had a gun in her car but did not bring it into the restaurant, which would have been illegal. She later said that she would have had a clear shot at Hennard from where she was lying. "We were sitting ducks, and that just makes me so blasted mad," she said. "I've got a right to protect myself." ◆

Jacob Sullum is managing editor of REASON.

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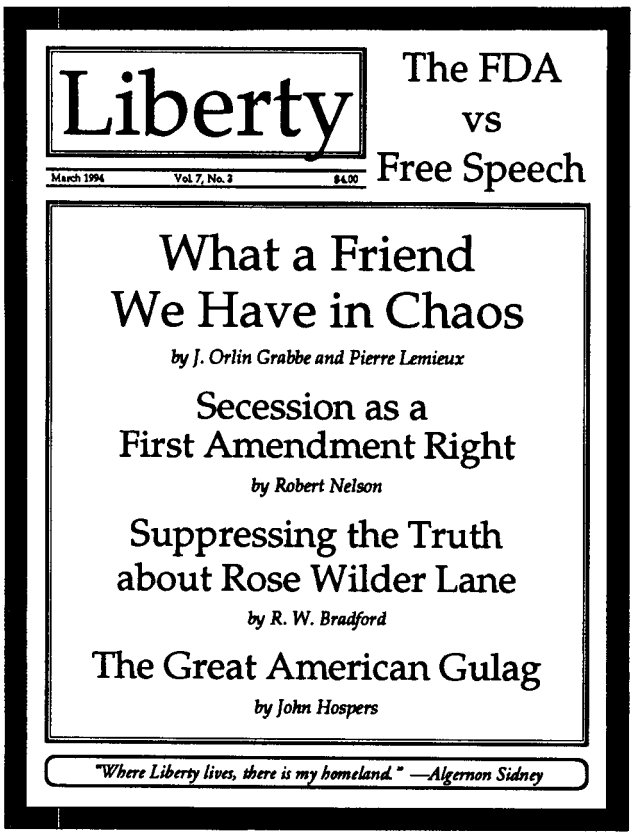
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Credit Limit?

By Rick Henderson

The balanced-budget amendment gets another chance.

IN 1993, ELECTED OFFICIALS IN WASHington had two solid opportunities to make meaningful cuts in the growth of the federal budget. Both times, President Clinton and Democratic congressional leaders sided with traditional spending interests to sidetrack attempts at fiscal restraint.

In May they rejected the Republican budget plan orchestrated by Ohio Rep. John Kasich that would have cut projected deficits by nearly $500 billion without any new taxes. (See "The Energizer," Aug./Sept.) Then in November, the House of Representatives narrowly defeated a $90-billion package of spending cuts proposed by Kasich and Rep. Tim Penny (D-Minn.) that would have cut the growth of the federal budget by 1 percent over five years. (See "Deficit Chickens," Feb.)

This February, deficit cutters will get another chance to tackle runaway government borrowing. For the second time in three years, Sen. Paul Simon (D-Ill.) and Rep. Charles Stenholm (D-Tex.) will offer an amendment to the U.S. Constitution that mandates a balanced budget. And although Clinton and several key Democrats will once again side with the big spenders, this time they may lose.

In the summer of 1992, the House fell only nine votes short of the two-thirds majority needed to pass a balanced-budget amendment. This February, Simon will offer the same amendment as before: Each fiscal year, the president must present a balanced budget to Congress. Federal spending in the current fiscal year can exceed tax revenues only if 60 percent of the members of each house of Congress vote for an unbalanced budget. And taxes

Sen. Paul Simon: Will his balanced-budget amendment doom Bill Clinton's image as a New Democrat?

can be increased only by a vote of more than 50 percent of the entire membership of both houses. (The House will vote on the amendment in March. In late December, Simon-Stenholm had 50 co-sponsors in the Senate, 260 in the House.)

Prospects for deficit hawks have improved since the 1992 vote. First, Clinton's deficit-reduction efforts look phony. If last August's budget deal works as well as expected, annual deficits will remain around $200 billion until fiscal year 1998. Then they will start skyrocketing again.

Since August, Clinton has used disingenuous arguments to oppose further spending cuts. In a November 5 letter to Senate Majority Leader George Mitchell (D-Maine), Clinton said the Simon-Stenholm amendment was "bad economics" because "the deficit increases automatically whenever the economy weakens."

That's true of the federal budget because it's easy for the U.S. government to borrow money. Stephen Moore, director of fiscal-policy studies at the Cato Institute, points out that state budgets, which must be balanced, tend to expand during good times and contract during recessions. During the 1980–83 and 1990–92 recessions, Moore reports, real state general-fund expenditures fell by about 1 percent, while real federal expenditures grew by about 10 percent. A balanced-budget amendment could contain deficits no matter how the rest of the economy behaved.

Clinton's letter then called Simon-Stenholm a "budget gimmick" that "would not reduce the deficit by a single penny." It could, however, "imperil the economic stability of the Nation and our fledgling recovery." The president thus argues that a balanced-budget amendment would simultaneously do too little and do too much. And at a December "entitlement summit" in Pennsylvania, Clinton took doublespeak to new heights when he argued that the only way to rein in federal entitlement spending was to create a brand new entitlement—a right to government-funded health care.

IN 1992, CONSERVATIVE REPUBLICANS DErailed the Simon-Stenholm amendment when they backed their own plan to balance the budget and restrain taxes. That plan was introduced by then-Sen. Bob Kasten (R-Wis.), whose amendment would have required a 60-percent majority vote to pass any tax hike that raised revenue by more than the annual increase in gross domestic product. (See "Balancing Act," July 1992.)

This time, a conservative alternative to Simon-Stenholm may emerge. But it's unlikely that conservative lawmakers or advocacy groups will try to pass it at the expense of the Simon-Stenholm amendment. Indeed, the National Taxpayers Union, the Christian Coalition, the American Legislative Exchange Council, and the Free Congress Foundation will all encourage their members to write or phone Congress in support of Simon-Stenholm. Americans for Tax Reform President Grover Norquist plans to conduct weekly tele-

conferences with local anti-tax activists, encouraging them to write letters and call talk shows. While recognizing that a mandate to balance the budget might lead to new taxes, these organizations also understand that a balanced-budget amendment would almost certainly derail new spending programs.

"We could have fun, point fingers, and prove we're good conservatives" by opposing Simon-Stenholm, says John Berthoud, ALEC's legislative director for tax and fiscal policy. But "we can count votes in Congress." An alternative amendment that precludes tax increases, he says, would never pass.

Competing amendments also tend to weaken the support for any reforms, says NTU Executive Vice President David Keating. As a result, he says, "Voters ignore them. The people pushing each [alternative] will say, 'My balanced-budget amendment is better than your balanced-budget amendment.'" When the amendments finally reach a vote, none of them passes.

CLINTON OPPOSES THE SIMON-STENHOLM amendment. But it's not clear how vociferously he will try to defeat it. His economic advisers—budget director Leon Panetta and his deputy, Alice Rivlin, and Treasury Secretary Lloyd Bentsen—argue in Keynesian terms that deficits should be used to stimulate the economy and to "create" jobs. They also say that any budget cutting beyond the deal enacted in August would hurt the economy and could cause a recession, a contention Federal Reserve Chairman Alan Greenspan has called "ludicrous."

Then there's health-care reform. The president's advisers have suggested that a balanced-budget amendment would make ClintonCare difficult, if not impossible, to implement. "That's a troubling argument," says Stenholm aide Ed Lorenzen. After all, ClintonCare is supposed to cut the deficit, not add to it. "People are already suspicious that the president's plan [won't] reduce the deficit," says Lorenzen. An all-out campaign by the White House to defeat Simon-Stenholm would make it clear that ClintonCare is nothing more than a huge new spending program.

Several powerful Democrats in the Senate—Majority Leader Mitchell, Appropriations Committee Chairman Robert Byrd (W.Va.), and Judiciary Committee Chairman Joseph Biden (Del.)—also oppose the amendment. The NTU's Keating and ALEC's Berthoud agree that, if the White House and key Democrats actively campaign to defeat the amendment, it has little chance of getting 67 votes in the Senate. Keating says the amount of energy Clinton expended to defeat Penny-Kasich "doesn't give us a lot of hope. If [Clinton] pushes hard on this amendment, I don't see how it can pass."

Nonetheless, Clinton's political advi-

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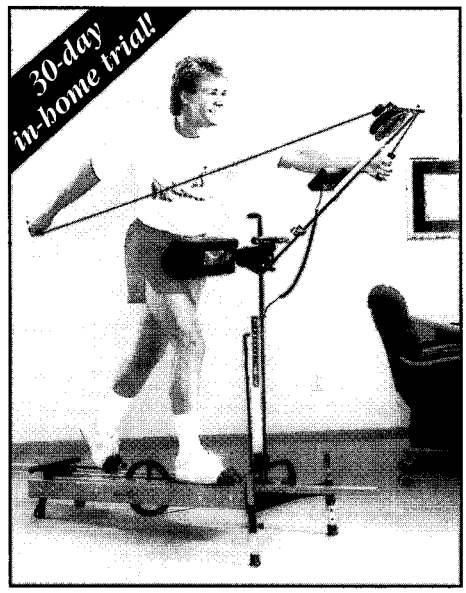

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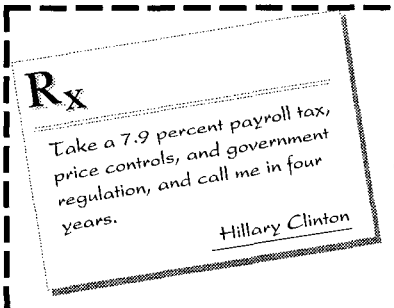

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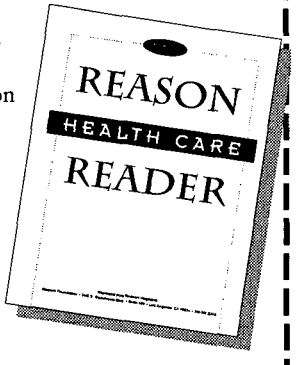

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sers—including David Gergen, who supported Simon-Stenholm as a *U.S. News & World Report* editor in 1992—recognize that deficit spending is becoming a loser at the ballot box. The Concord Coalition and Ross Perot's United We Stand America can mobilize thousands of people to work against candidates those organizations consider fiscally irresponsible.

Democrats occupy 21 of the 34 Senate seats that are up for election this fall. Four incumbent Democrats will not seek reelection, and seven other incumbents won their last race with 57 percent of the vote or less. If the budget deficit becomes a major issue in the 1994 election, the Simon-Stenholm vote could determine which party controls the Senate for the next two years. And in the House, many of the 66 freshman Democrats ran in 1992 as deficit hawks. Since this Congress has already passed a huge tax increase, incumbents may feel a great deal of pressure to support a balanced-budget amendment as a restraint on future spending.

As this story goes to press, no one can confidently predict how the Senate will vote on Simon-Stenholm. A *New York Times* head count in early November found that 60 senators favored the amendment, 20 opposed it, and 20 were undecided. Amendment backers claim that the opposition is weakening. For instance, Senate Budget Committee Chairman Jim Sasser (Tenn.), a former opponent, now says he may vote for the amendment. Simon spokesman David Carle thinks the Democratic leadership will not take a position on the amendment.

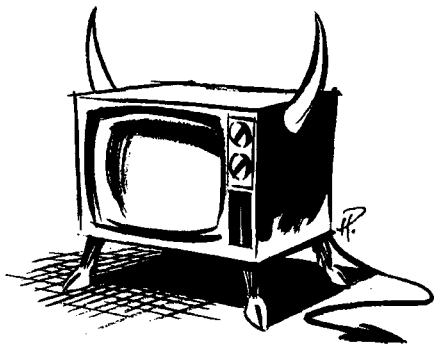
If Clinton stays on the sidelines, the amendment could pass. Supporters doubt the president can afford to exhaust his political capital to defeat a balanced-budget amendment with his health-care reforms also on the line. Eventually, Clinton will have to support real fiscal reforms. Otherwise, says ATR's Norquist, a successful campaign to defeat Simon-Stenholm would "hail the death of Bill Clinton as a New Democrat." ®

Rick Henderson is Washington editor of REASON.

Remote Control

By Adam Clayton Powell III

In South Africa, the revolution will be televised by government-owned stations.



HENRY PAYNE

When Nelson Mandela was released from a South African prison three years ago, one of his preconditions for participating in national elections was the abolition of government control of television. Although South Africa is scheduled to hold its first nationwide vote open to all races this April, all TV newscasts in South Africa are still broadcast from government-owned television headquarters in Auckland Park. Even more important, all news on all of the television channels is scrutinized by one department, under one editor at the central studio. The more some things change in South Africa, the more others stay the same.

The centralized structure of South African television mirrors the centralized structure of state security and control. Just as the white minority government created a central security bureaucracy to enforce apartheid laws, so it also created a central broadcasting organization, the South African Broadcasting Corporation, to produce and transmit all authorized television. When television came to South Africa in the mid-1970s, years after it was a staple in most of the world, the government viewed it (not incorrectly) as a dangerous, revolutionary tool, a window through which even the poorest rural villager could glimpse the fruits of a free society and a free economy. Not surprisingly, all television news explicitly favored the government.

All programs were produced or acquired by the National Party, which has ruled South Africa since 1948. The "Nats," dominated by Afrikaners, viewed the SABC's nearly 6,000 jobs as part of the political spoils system. While the National Party never won more than 55 percent of the vote in a time when only whites could vote, the Nats were able to exercise absolute control of SABC appointments under a winner-take-all arrangement. Even with the impending election and the probable electoral rebuke of the National Party, SABC remains very much a Nat stronghold. Of 61 managers, one is black, one is an English-speaking white, and the remaining 59 are Afrikaners.

SABC has responded to calls for more diverse programming in several ways, none of which can be mistaken for setting up a thriving marketplace of ideas. Last spring, David Frost hosted a series of special political programs. Viewers can now see CNN in bits and pieces, and Britain's Sky News channel is carried for part of the day. Recently, the network has purchased a few news programs that were not produced in its own newsroom, notably the talk show *Future Imperfect* and a short series of news programs produced by the muckraking *Weekly Mail*.

Meanwhile, the only commercial television license has been awarded to the country's major newspaper publishers, who promptly turned their network into an HBO-like movie channel. Although one might expect otherwise from a company owned by newspaper publishers, the network does not produce any newscasts.

Although it's clear that massive political change is coming to South Africa, the future of its state-run television enterprise has yet to come into focus. As political reforms got underway, there was much excited talk of fairer political coverage on television, of shows produced by leftists, centrists, and rightists, of new networks to be owned by blacks, whites, Asians, and coloreds. But in spite of the talk, SABC retains its monopoly. Illegal radio stations broadcast news and music—and commercials—but pirate television stations have yet to appear. If anyone has anything to say to the millions of South African voters who watch TV news, there is only one place to say it.

While it's hardly surprising that the Nats have attempted to maintain control of the airwaves, the slow pace of television reform is potentially a major problem for the new South Africa. As George Gilder noted in *Life After Television*, television is a "totalitarian medium" because it locates power in a few broadcast centers that originate programs for mass audiences. Such a "master-slave architecture" tends to cause severe bottlenecks of the knowledge necessary for the proper functioning of a democracy. How can people make well-informed choices if there's little or no access to information?

As long as a top-down authoritarian structure is still in place, the opportunity for abuse is ever present. A future government could decide to continue shaping the news and to continue using the country's television monopoly to control political debate and discussion. Without a fundamental structural change, dialogue in South Africa may once again turn into a monologue. ®

Adam Clayton Powell III is the coordinator of the South Africa Exchange Project, a program encouraging interaction between South African and American journalists.

Animal Farm, Circa 1994

By Steven Hayward

Stakeholder representation means some interests are more special than others.

CONSIDERING THE FLAP LAST SPRING over Lani Guinier's views on voting rights and balloting outcomes, you might not expect many new challenges to traditional methods of electoral representation. But a stealthy new form of special-interest politics is flying beneath the radar screen of hot-button issues such as affirmative-action quotas and "diversity." While "stakeholder representation" has avoided notice so far, it's likely to be a high-profile characteristic of the Clinton health plan.

Stakeholder representation refers to the growing practice of explicitly allocating positions on government boards, commissions, and advisory bodies to special-interest groups. A hybrid of quotas, Scandinavian-style corporatism, and old-fashioned interest-group liberalism, stakeholder representation holds that interests with a "stake" in a government policy or regulatory activity should be officially represented on the government agency that oversees that area of policy. While the theory posits a cut-and-dried reality, the practice is a sloppy, highly politicized affair. Self-appointed pressure groups such as environmentalists, consumer advocates, and civil-rights organizations share equal standing with parties who have traditionally represented constituent interests, such as business, organized labor, or property owners, while other interests are excluded altogether.

So far, stakeholding has been used mostly in an advisory capacity. In California, two recent high-profile stakeholder consensus groups dealt with growth and land-use issues, while another group, dubbed the "Sierra Summit," dealt with the environmentalist agenda for the Sierra Nevada mountain range. Both efforts were convened at the behest of political leaders who like the "stakeholder consensus" idea because they think it can break "gridlock" and reduce the pressures brought to bear on them in the course of passing legislation.

While the California groups played only advisory roles, the idea of explicit stakeholder representation is slowly creeping into proposals for state and local government agencies and commissions. One recent unsuccessful bill in California would have required the governor to make appointments to a state growth-control agency exclusively from a list of names submitted by environmental, labor, and civil-rights groups. Another proposal for local growth-management councils in the state of Washington would have allocated memberships to government planners and environmentalists, while simultaneously prohibiting representation for the real-estate or development industries.

Stakeholder representation is also quickly gaining momentum at the national level. The Clinton administration loves the idea and has already established stakeholder-based selection criteria for its new Competitiveness Policy Council (not to be confused with former Vice President Quayle's Competitiveness Council, the Clinton council is an advisory body concerned about "long-term investment" in the economy). The 12 members of the council were selected equally from business, labor, government, and "public interest" groups.

The administration plans to deploy stakeholder representation on a variety of fronts, including the National Skills Standards Board in the pending education reform bill and the Regional Health Alliances proposed in the president's health-care package. Look for some kind of stakeholder scheme to be employed in the bodies that emerge from the NAFTA side agreements as well.

AT FIRST GLANCE, THE IDEA OF STAKEholder representation might seem like a simple extension of the idea of having expert qualifications for single-purpose government agencies—for instance, having economists and bankers work at the Federal Reserve—or like a variant of the idea of proportional representation. And the idea of balancing competing interests through "stakeholder inclusiveness" might seem to solve the old problem of government agencies being commandeered by self-dealing interests.

But, in practice, stakeholder representation entails favoring certain special interests over other interests, therefore biasing the outcome of any "consensus." As with the menagerie in George Orwell's *Animal Farm*, some stakeholders are more equal than others. Not just *anyone* can be a board member of a Regional Health Alliance. The Clinton health-care plan favors certain kinds of people—employers and "consumer representatives"—while banning others: health-care providers, lawyers and other professionals working for health-care providers, and anyone connected with the pharmaceutical industry.

To anyone familiar with the workings of local, state, or national government, it is not really surprising that the balance of power among stakeholders is usually tilted decisively against business stakeholders (who are not, in many cases, noble representatives for free and open markets). But not only are business stakeholders outnumbered, the other supposedly disparate stakeholders—environmentalists, minority and civil-rights groups, organized labor, and local government—are usually united by a common interest in a bigger, more activist government. The dynamic implicit in "stakeholder consensus" steamrollers business interests into

acquiesing to an expansion of government. This especially happens with stakeholder groups convened to advise government about such knotty issues as land use, growth, or the environment.

I had the opportunity to observe this process firsthand for six months in 1991, when I served as an alternate stakeholder in California's growth and land-use advisory group. The entire process resembled a labor negotiation rather than a deliberation about the merits of various policy alternatives. Ideas and principles were decidedly unwelcome, and the rest of the group regarded any mention of property rights as the equivalent of belching at the dining room table.

HENRY PAYNE

This perception might be discounted as the lament of a frustrated policy wonk. But in contrast to legislative deliberations conducted in full public view, where facts and principles still count for something and are occasionally still decisive, stakeholder meetings are usually conducted behind closed doors without any public attention. As a result, they sink, by their group dynamic, to the lowest common denominator, which always means more government. A *San Francisco Examiner* headline about the findings of the growth and land-use group illustrates the results: "Study urges larger government role in managing growth."

Anti-business bias and hush-hush proceedings aren't the only drawbacks to stakeholder groups. Notably missing from the Noah's Ark "two of everything" approach to composing commissions and boards are grassroots taxpayers' organizations. Because such organizations will tend to object to the increased taxes needed to pay for bureaucratic expansion, they are routinely left off the list of potential stakeholders. "The last thing these so-called stakeholders want is to see the tax producer projected into these things," says Lew Uhler of the National Tax Limitation Committee.

While the tax*payer* may not get a place at the stakeholder table, the tax *collector* usually is a guest of honor. Recent proposals for growth-control agencies in California and Washington state reserved stakeholder slots for local and state government agency representatives. The inclusion of government as a stakeholder confirms what has long been obvious to libertarians: Government has become an interest group unto itself, with ambitions just as self-seeking as any private interest group's.

THE INCREASING USE OF STAKEHOLDER groups raises troubling questions about the changing nature of democratic representation. Obviously, self-appointed stakeholders such as environmentalists and consumer advocates bear no accountability to voters or even to the political executives who appoint them. This is the main reason why the process encourages stakeholders from the outset to engage in horse-trading based on their narrow self-interest rather than deliberation based on their opinions or principles. On a deeper level, though, the stakeholder notion makes a hash of the idea of majority rule and government by consent.

To say that certain groups have a special "stake" in a particular area of policy is to imply that ordinary citizens have no "stake," or an inferior "stake," in the actions of government. Under the traditional understanding of representative government, special-interest groups who dissent from government policy are invited to lobby and persuade and have the same right as every other citizen to vote their interest in elections. It is precisely because *all* special interests share the equal rights of every citizen that they should not be given a privileged position at any official councils of government. Government shares the same accountability with special interests as with general interests, because all are equal in the voting booth. In the end, the stakeholder scheme benefits those special-interest groups who cannot get what they want through the ordinary legislative or administrative process, or who cannot demonstrate decisive force in elections.

While stakeholding based on economic and social interests is questionable enough, it seems likely that the process will also become a back-door means of advancing explicit racial, ethnic, and gender-based quotas in government. Already in California, state Sen. Diane Watson (D-Los Angeles) has proposed a bill requiring that state boards and commissions be appointed in exact proportion to the gender and ethnic makeup of the general population. While the Lani Guinier episode shows that mainstream Americans still rankle at the idea of defining individuals solely in terms of their race and sex, the practice of "stakeholder representation" does not differ much in principle. It is only a short step from stakeholder inclusion based on interest to stakeholder inclusion based on ethnic group or gender. ®

Contributing Editor Steven Hayward is research and editorial director for the Pacific Research Institute.

Touch and Stop

By Neil Gilbert

There's little evidence that classroom programs help prevent sexual abuse.

If these elementary-school children were required to undergo classroom training in sexual-abuse prevention, chances are that the lessons they learn would do little to actually protect them should they ever face a sexual abuser.

ALMOST TWO-THIRDS of the nation's elementary-school districts require classroom training in sexual-abuse prevention. Despite the popularity of prevention programs, there is a serious debate among professionals about whether the lessons work and should be expanded or whether the vast amount of resources they consume might be used in other ways to protect children more effectively. Recent findings from a major study claim to settle the issue with the discovery that comprehensive prevention programs really do protect children.

These findings have gained the kind of authority that is attributed to facts endorsed by *The New York Times*. On October 6, under the headline ABUSE-PREVENTION EFFORTS AID CHILDREN, the *Times* devoted almost a quarter of a page to an article extolling the benefits of sexual-abuse prevention training programs. A close look at the study, however, reveals a different story than the one told to the public. It is a story of how journalists are bamboozled by advocacy research advanced under the mantle of social science, how public funding is promoted for programs of dubious value, and how children may be jeopardized in the process.

The opening sentence of the *Times* article declares, "The first national survey to assess the effectiveness of school-based programs to prevent sexual abuse confirms that they help children in real-life encounters with potential child molesters." Based on results from a representative national sample of 2,000 children who were interviewed on the telephone along with their parents, the study's senior author, University of New Hampshire sociologist David Finkelhor, finds "that the kids who have gotten the better sexual abuse prevention programs do act better in the crunch." By "better programs" he means those that were longest and most comprehensive in coverage of prevention concepts.

In the words of *Times* reporter Daniel Goleman, "The more comprehensive the training the more likely it was that the children would use strategies like yelling, saying no, or running away when threatened with sexual abuse. They also knew more than other children about the topic, felt more confident about their abilities to protect themselves, and were more likely to report any actual or attempted abuse to adults. On the other hand, children who had received the training were slightly more likely to suffer injury once a sexual assault began because they were more prone to fight back."

This version of the study's findings magnifies small differences that are insignificant and underplays large differences that may be seriously dangerous. Let's look at the facts. Did children who participated in the comprehensive program have more knowledge about sexual-abuse prevention? Yes. On a 16-point scale, they scored an average of half a point higher than children who had never had any training. At the same time, the children who never had any training actually scored a whit higher than those who had participated in the prevention programs that were judged less comprehensive. If these findings are correct, about one-half of the schools that mandate this training are spending millions of dollars on brief, less-comprehensive prevention programs from which students emerge with no more knowledge than those who never participated. And even more funds are being spent on longer programs that increase knowledge by just a fraction of a point.

BUT WHAT ABOUT THE OTHER OUTCOMES? Does this slight increase in knowledge make a difference? Are the children who receive comprehensive sexual-abuse prevention training really acting better in the crunch? Finkelhor's rigorous analysis of the data simply does not coincide with his optimistic interpretation of the results. Regarding the positive outcomes cited by

Goleman, for all of the children abused and threatened by sexual abuse the data show no statistically significant differences between the behavior of those who had received no or minimal prevention training and those who had participated in the most comprehensive programs, when relevant factors such as age and gender are controlled.

AMONG THE SEXUALLY VICTIMIZED RESPONDENTS, children who received comprehensive training were not significantly more likely than the others to use the strategies, such as saying no or running away, that Finkelhor considers more effective. Nor did they differ significantly with regard to their sense of confidence in coping with their abusers, their disclosures of actual or attempted abuse, or their success in thwarting attempted abuse. There were small differences among the respondent groups on these outcome variables.

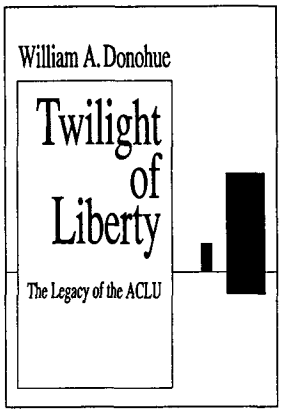
In some cases—for example, success in thwarting attempted abuse—children who received no training were a little more effective than those who participated in minimal or comprehensive prevention programs. This finding was not mentioned in the *Times* article. But in every case, judging by conventional scientific standards, we must conclude that the small differences found were likely to occur by chance.

On several other outcome variables, however, the differences were more pronounced and statistically significant. While Goleman reports that the children who received comprehensive training were only "*slightly more likely* to suffer injury once a sexual assault began" (emphasis added), the data show that in fact 15 percent of these children were injured, a rate more than three times that of those who received no training. And when threatened with sexual victimization, children who participated in comprehensive prevention training programs were more likely to employ strategies, such as crying and fighting back, that Finkelhor considers less effective (this may account for the higher injury rate).

Although Finkelhor calls fighting back one of the "less preferred" responses, it is a protective strategy taught to children as young as 5 by one of the most widely used programs in the country, the Child Assault Prevention Program, developed by Women Against Rape in Columbus, Ohio. (This program also teaches children that a father's pat on the behind can be a "bad touch" that should be reported to other adults.) Rather than "acting better in the crunch," the firmest conclusion that can be drawn from these findings is that, when faced with the danger of sexual abuse, children who receive comprehensive training use less preferred strategies and get injured more than three times as often as children who received no training.

Are sexual prevention programs really that dangerous? These findings should not be taken too seriously. Professionals know that telephone surveys are rather unreliable as a method to evaluate anything as complex as the effectiveness of prevention programs or the way children respond to actual threats. Journalists should learn something about the limits of social research. The real message from this research for parents, school officials, and policy makers is that although sexual-abuse prevention training programs are well-intentioned efforts to protect children against a loathsome crime, there is no evidence that they work, or even on the margin that these efforts produce more good than harm—newspaper headlines on the subject notwithstanding. ®

Neil Gilbert is Chernin Professor of Social Welfare and co-chairman of the Berkeley Child Welfare Research Center. His most recent book is With the Best of Intentions: The Child Sexual Abuse Prevention Movement *(written with Jill Duerr Berrick).*



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Statist Quo

By Lawrence A. Uzzell

In Russia, the pace of reform will slow even more—and the reformers are largely to blame.

RUSSIA'S DECEMBER 12 ELECTIONS leave free-market reformers with only one piece of good news. After years of linguistic confusion in which Marxists were described as "right-wing" and reformers as "left-wing," we are finally hearing labels that contemporary U.S. political observers can understand. Vladimir Zhirinovsky's party, which has now surged to the forefront of the anti-market opposition, calls itself the Liberal Democrats.

Zhirinovsky is routinely labeled a "fascist" in the Western media, but he does not use that term himself; in fact, he has filed lawsuits against Russians who call him that. The tag preferred by his own chief of staff, as I learned when I visited Zhirinovsky's campaign headquarters in November, is *gosudarstvennik*—the precise, literal translation of which is *statist*.

Supporters of the pro-Yeltsin Russia's Choice bloc, led by Deputy Prime Minister Yegor Gaidar, have tried to minimize their December defeat by emphasizing that once all the votes were counted, Russia's Choice had won more seats than the Liberal Democrats in the new parliament. But this is cold comfort.

First, the key barometer of popular opinion was the vote for party slates, not for parliamentary candidates running as individuals. It was precisely for the purpose of improving the reformers' chances that the Yeltsin administration designed the complicated new system of parliamentary elections: Only half of the deputies in the lower house were chosen individually from U.S.-style, single-seat districts, while the other half were allocated among parties according to the vote that each party slate received nationwide.

Several sources in the Russia's Choice bloc told me they had expected that their party slate would do better than pro-Yeltsin candidates running as individuals. But the result was just the opposite, showing a depth and intensity of anti-administration feeling far stronger than anyone predicted. Instead of the 30 percent to 40 percent expected, the Russia's Choice slate received only about 15 percent of the nationwide vote, compared with about 25 percent for the Liberal Democrats.

Second, when the Liberal Democrats' seats are combined with those of other statist parties such as the Communists and the Agrarian Party, it is clear that the opponents of free-market reform are stronger in the new parliament than the supporters. Three pro-reform parties—led by Yeltsin's key adviser for regional affairs, Sergei Shakhrai, St. Petersburg Mayor Anatoly Sobchak, and independent economist Grigor Yavlinsky—all did worse than expected. Sobchak's slate did not even get the 5 percent of the nationwide vote required for it to win any parliamentary seats.

Moreover, many of the new deputies in Gaidar's and Shakhrai's parties, including such centrist Yeltsin team members as Prime Minister Viktor Chernomyrdin, are at best shaky in their support of free-market measures. In essence, these centrists are the Moscow equivalents of Bush Republicans.

So the new parliament will probably be just as anti-reform as the one Yeltsin destroyed last October. But unlike the old parliament, the new one will enjoy unquestioned democratic legitimacy—even more than Yeltsin himself, who has now broken his pledge to hold presidential elections this year.

And if the confrontation between president and parliament should turn violent again, Yeltsin will probably not be able to play the military trump card, as he did last fall. Contrary to pre-election forecasts, military personnel voted for the Liberal Democrats even more heavily than the electorate as a whole. Zhirinovsky even carried the units based near Moscow that stormed the White House in October.

IT IS NOW INEVITABLE THAT THE ALREADY sluggish pace of free-market reforms will slow even more. This slowing of reforms will cause a further decline in the average Russian's economic well-being, a decline that he will blame not on Zhirinovsky or other opponents of reform but on Yeltsin and Gaidar. All but the most principled politicians will respond by distancing themselves even more from the radical-reform agenda, thus further decelerating the reforms, further accelerating economic decline, and providing still more opportunities for demagogues such as the Liberal Democrats. In the race to succeed Yeltsin as president, the momentum will increasingly be with Zhirinovsky or with other anti-reform leaders such as Sergei Baburin, whose Russian Popular Union party was denied a place on the December ballot by Yeltsin's election officials.

The reformers themselves largely caused this debacle. Gaidar stresses the disunity among the pro-reform parties. But he and his fellow leaders of Russia's Choice made such disunity inevitable by nominating a nationwide party slate dominated by Yeltsin administration officials, leaving such grass-roots reform leaders as Lev Ponomorev of the Democratic Russia movement out in the cold. (See "Scattered Opposition," March 1993.)

And in a bitter irony, the Yeltsin team shares the responsibility for the swift rise of the Liberal Democrats. Apparently calculating that Zhirinovsky would draw votes away from the other communist and

ultra-nationalist opposition parties, the administration saw to it that his was the only one of the red/brown parties not to be suspended temporarily in October; he thus gained a head start in organizing and in collecting signatures on his nominating petitions. And those petitions were accepted without question by the Central Electoral Commission, unlike those of Baburin's Russian Popular Union.

Times have changed in Russia! No longer will a Stalin simply take power! Nope. Were a Democracy!
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MikeLuckovich

Another misjudgment was the bland, content-free campaign waged by Russia's Choice—heavy on slick, Western-style TV spots and light on concrete issues. A campaign theme like Ronald Reagan's 1984 "It's morning in America" works only if you have Reagan's economic success in the background, which Gaidar didn't. Zhirinovsky, by contrast, focused his hard-hitting campaign on issues that Russians care about, including the rising crime rate.

The reformers have failed to rebut a myth promoted both by the Liberal Democrats in Russia and the statist-oriented Western press. The conventional wisdom is that free-market reforms have caused the average Russian's economic misery. The truth is precisely the opposite: Russians' economic well-being has been deteriorating because reforms are proceeding too slowly.

THE MOST IMMEDIATE HARDSHIP NOW facing ordinary Russians is inflation, which exceeded 20 percent per month during most of 1993. As in Germany in the 1920s or America in the 1970s, statist demagogues blame inflation on evil businessmen who capriciously raise prices. But as any literate economist knows, what causes inflation is excess money creation—too many rubles chasing too few goods—which is precisely what Moscow's free-market reformers have tried, but failed, to stop.

Thanks to Prime Minister Chernomyrdin's firm support of Viktor Gerashchenko, the socialist chairman of the Russian Central Bank, the government has provided an unending supply of credit to obsolete state-owned firms. Many of these operations are "value subtractors," manufacturing unsalable products out of valuable raw materials and labor that in a free economy would be liberated for truly productive uses. These loans, of course, will never be repaid.

Though he enjoys a reputation as a reformer, Finance Minister Boris Fedorov has also fed inflation through excessive government spending. In 1993 spending probably exceeded 150 percent of revenues; at the end of the year, the government announced that spending on social programs alone would climb by more than one-third.

Supporters of the Yeltsin administration claim that such measures were forced on the president's team by the need to work with the socialist parliament. They argue that the new constitution approved by popular referendum on December 12 will make it easier to push through reforms even without the parliament's consent. The first of these claims is false, the second misguided.

During the 10 weeks between the storming of the White House and the December elections, Yeltsin's executive branch had a monopoly of power—total freedom to decree whatever reforms it chose. This period offered Yeltsin his best chance ever for the much talked-about "Pinochet option" of combining political authoritarianism with economic freedom. But this unique opportunity was almost entirely wasted. The executive orders issued during these weeks—for instance, strengthening state control over the press—did more to buttress authoritarianism than to advance economic freedom.

The one decree of this period that touched the foundations of the economy, Yeltsin's November edict on land ownership, fell far short of dismantling socialist control of real estate. For example, it left intact the ban on converting farmland to other uses. Russia's chronic housing shortage will thus continue indefinitely: At the edge of Moscow one can still see overcrowded, high-rise apartments standing next to empty fields.

As for the constitution, again the Yeltsin team sacrificed long-term reform to their own immediate needs. In creating a super-presidential, super-centralized republic, they seemed to assume that Russia's president will always be more enlightened than its parliament, and the central government more so than the provinces. Sooner or later that assumption is bound to fail, and statists such as the Liberal Democrats will gleefully seize the unchecked, unbalanced power structures that the Yeltsinites have created.

Russia's political tides are notoriously unpredictable. It would be a mistake to think a Zhirinovsky presidency is now inevitable, just as it was a mistake for the Yeltsin team to think the December elections would automatically repeat last April's referendum, in which the reformists triumphed. Nevertheless, when I arrived in Russia in the middle of 1992, comparisons to Weimar Germany seemed grossly alarmist to me. Today, they don't.

Lawrence A. Uzzell is vice president and director of the Moscow office of the Jamestown Foundation, a foreign-policy research institute based in Washington, D.C.

MIKE LUCKOVICH

Information Please

By Martin Morse Wooster

Fear of the electronic superhighway does not compute.

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BOK
"I FAXED MY LUNCH ORDER TO THE WRONG NUMBER, THE COMPETITION INTERCEPTED ALL MY CORDLESS PHONE CALLS, AND AN A.T.M. RIPPED OFF OUR LIFE SAVINGS."

TO CONSIDER THE ENORMOUS changes that have affected communication in the last decade, think back to 1980. Only a few wealthy Americans owned VCRs. Only big businesses used faxes. Only a few homes received cable television; the rest of us were limited to the three networks, public television, and whatever old movies were on the independent station. Computers were large, punch-card-fed, and frightening.

What futurologist could have predicted today's world, with affordable faxes, personal computers with power unimaginable to a James Bond villain, and cheap videocassettes sold over the counter at McDonald's? And the information world of 2008 is as unforeseeable to us as today's information highway was in 1980. Will we watch television on our computers or run software on our TV sets? Will we still buy books—or go to a movie theater or a library?

Conventional wisdom holds that the large number of choices will result in our brains' bursting with "information overload." Every time I hear this phrase, I imagine it to be the mental equivalent of sticking your finger in an electrical socket. We'll be so burdened with knowledge that our brains will bulge and our hair will look like the bride of Frankenstein's.

Philip Elmer-DeWitt expresses these standard fears in the October 25 *Time*. In a bad piece of science fiction, Elmer-DeWitt predicts a future in which everyone will spend evenings slouching in front of "teleputers," agonizing over which one of the 500 channels to choose from. Will Americans in the 21st century spend their evenings watching interactive soap operas? How about "laser-print coupon clubs"? Or electronic classifieds? Or video dating services?

"The only people who weren't plugged in were those pointy headed people who never owned a TV set in the first place," Elmer-DeWitt writes. "I saw one of them the other day, walking outside, making a fuss over the flowers. Hey, I'm no low-brow. I used to go to the movies!"

Whatever the future holds, two things are clear: There will never be exactly 500 channels to choose from, and no one will ever need to read *Time*. (Since no one needs to read *Time* now, of course, the second prediction is not particularly daring.) Moreover, the possibility of hundreds of different things to do on your television set does not mean that people will become TV zombies. No one reads all the magazines on a newsstand or tries to watch every show on cable TV. Given more choices, people will probably watch the shows they like and skip the ones they don't. People won't spend more time in front of their televisions in the future—they'll just be more selective.

THE MAGAZINE *WIRED* PROVIDES A MORE plausible view of the future of information. This bimonthly is a general-interest magazine about the future of information that combines meditations on the future with reports about current technological advances. Once I got past the exceedingly loud graphics (the page numbers are fluorescent and illegible), I found it quite informative. The September issue, for example, reports that Singapore is trying to become the world's first "information island" and gives a list of new words that future technophiles ought to know. (To "cut steel," reports Gareth Branwyn, is to build a mold for a new product. A "knowbot" will be a software program that will act as a reference librarian helping users find the information they need.)

The most interesting thing about *Wired* is that it hires science-fiction writers to provide reports: The editors sent William Gibson to Singapore and Rudy Rucker to the set of *Jurassic Park*. Michael Crichton also spends several of *Wired*'s pages discussing the future of information. But the

CHIP BOK

best article is by Bruce Sterling, discussing what the "information superhighway" of the future might be like.

Sterling describes "Bob Smith," testifying before a congressional committee in 2015, a year in which, Sterling says, "living without the Net would be like living without electricity." The Net, Sterling says half-jokingly, will foster individual liberty. He predicts that "one of the most feared political organizations in the world is the multi-national anarchist libertarian group called the Students for an Utterly Free Society."

In Sterling's scenario, encryption will be commonplace, enabling programmers to thwart police and government agents. He portrays an FBI raid on an information node in South Dakota used by Iranians. After decryption, the Feds find that 80 percent of the files are pornography, 15 percent pirated videos and films, and 5 percent "text files in the Farsi language describing how to build, deliver, and park truck bombs in major urban areas."

Other "information entrepreneurs" won't even need homes, says Sterling. He describes how police in "North Zulch, Texas" arrest a scruffy biker and destroy a cigarette-pack-sized device which turns out to be the node for a bulletin board with 15,000 users, some of whom are wealthy moguls. The enraged users go to North Zulch, buy the town, pulverize it, and donate the land to the Nature Conservancy.

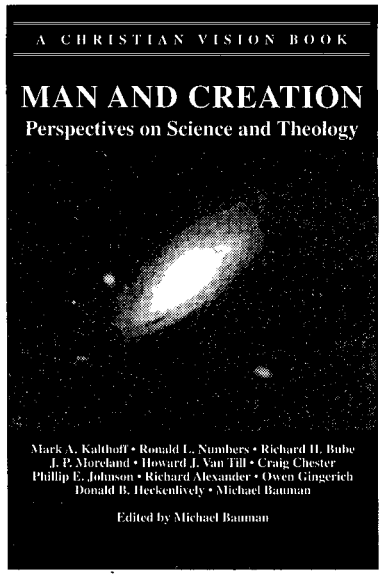
ANOTHER FEATURE IN THE SEPTEMBER *Wired* is an interview with George Gilder, who is working on a book on the future of the "telecosm." Gilder's views, however, are better expressed in an article in a recent issue of *Regulation*, dated only 1993.

Gilder predicts that, by 1995, there will be chips with 100 million transistors; by 2000, chips with 1 billion transistors will be easily available. Tens of millions of cellular phones and personal communication devices will make the nation's existing telephone web a costly anachronism. Fiber-optic cables will be superseded by "all-optical networks" of silicon fibers that "will make communications power virtually free."

These changes, says Gilder, will make the U.S. Postal Service a technological anachronism. It already costs only 13 cents to send a one-page fax coast to coast, compared to 29 cents for a letter; falling fax prices will check the Postal Service's ability to raise prices. Ultimately, Gilder argues, the Federal Communications Commission and state telephone regulators will lose their justification, since their raison d'être is that the electronic spectrum is scarce and therefore needs the firm hand of government to ration the finite airwaves and oversee such "natural monopolies" as the local cable-television franchise and the local telephone company.

It's clear that computers have freed people rather than enslaved them, and that forthcoming changes in the information world will encourage decentralization. One consequence of the information superhighway may well be an increased pride in regional identity; if there's no need to move to a big city to do your work, you won't have to live like a rootless urban sophisticate.

The increasingly specious argument for such "natural monopolies," Gilder contends, will become even more dubious when silicon cables enable photon-based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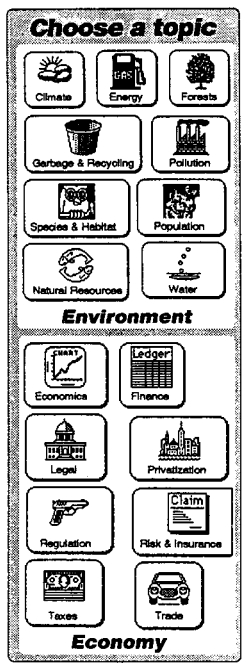

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messages to travel around the world at virtually no cost. But government can block this bright future by denying telephone-company competitors access to "dark fiber"—the one-third of the nation's existing fiber-optic network currently unused by the phone companies. Phone companies make 10 times as much money transmitting data as they do transmitting voices, and they don't want to lease the dark fiber to competitors without loading it with expensive—and, in Gilder's view, unnecessary—electronic enhancements.

Gilder cheers a recent FCC ruling that allows such competitors to the telephone companies as Electronic Data Systems, Shell, and McDonnell Douglas to buy as much "dark fiber" as they want. He feels this will stimulate a continuing fall in communications charges, which will encourage entrepreneurial drive and initiative.

"In a regime of boundless bandwidths and computational abundance, the key scarce resource will be the human mind," Gilder concludes. "Contributing the bulk of the value added and gaining most of the profits, human creativity will become ever more valuable and more highly rewarded. Slipping inexorably away into the trackless realms of human minds, economic activity will become ever harder to regulate, tax, or control."

One need not agree with every point Gilder makes (particularly when he slips into techno-mysticism) to conclude that his basic ideas are sound. It's clear that computers have freed people rather than enslaved them, and that forthcoming changes in the information world will encourage decentralization rather than strengthen hierarchy. "Infopreneurs" may not be scruffy bikers, but they'll be as free to live in Louisville or Bozeman as in Silicon Valley or Manhattan. Indeed, one consequence of the information superhighway may well be an increased pride in regional identity; if there's no need to move to a big city to do your work, you won't have to live like a rootless urban sophisticate.

But one can never underestimate the power of government to ruin the future, so one must be wary of the Clinton administration's proposals for the information superhighway. It's hard to tell what these plans are, since they vary day by day. But there are certainly some questions about the information net that the Clintonites ought to address.

How, for example, will copyright laws be enforced in the electronic age? As Evan Schwartz notes in the November 22 *Publisher's Weekly*, some publishing firms are already putting works on the net, using "electronic bookstores" that can collect fees from users. At least one company, Wide Area Information Services, sells software that allows large users (Sun Microsystems, the Environmental Protection Agency) to post and retrieve large documents from the net and conduct keyword searches to find desired information. But without a reliable method of enforcing copyrights and ensuring that artists and authors get their royalties, there will be very little incentive for anyone to be creative.

And as Eliza Newlin Carney reports in the November 20 *National Journal*, nonprofits and liberal lobbyists (including such unlikely groups as the National Coalition on Black Voter Participation) have formed the Telecommunications Policy Roundtable, which Carney says wants to make sure that schools and the poor can get the information they need—or, as lobbyist John M. Lawson put it, to make sure that no one will "end up as 'road kill' on the information superhighway."

These fears are misguided. The history of computing is a continuing saga of better goods being offered at lower prices. If trends continue, information may not be free, but it will certainly be cheaper than telephone service or cable television. If the government allows market forces to do their job, the information net will end up making Americans freer, happier, and more self-reliant than they were before computers became commonplace. ®

When not traveling the information back road, Contributing Editor Martin Morse Wooster is a visiting fellow at the Capital Research Center.

Dealing with the Devil

By Ellen Frankel Paul

Bargaining with the State, by Richard A. Epstein, Princeton, N.J.: Princeton University Press, 322 pages, $35.00

Richard A. Epstein argues that the state's power to contract and to grant ought to be subject to as much scrutiny as takings and taxation.

RICHARD EPSTEIN'S *BARGAINING with the State* is intended to be the flip side of his 1985 book, *Takings: Private Property and the Power of Eminent Domain*. While *Takings* was concerned with reining in the government's regulatory, eminent domain, and taxing powers, *Bargaining* examines government in its role as dispenser of favors: subsidies, tax breaks, welfare, highways, limited liability for corporations, professional licenses, government jobs, unemployment benefits, and grants for the arts, medicine, and the humanities, among other things. The book is a rather unruly collection of topics that Epstein valiantly seeks to tame into something approaching theoretical consistency. He is undoubtedly right when he writes that this topic lacks the "dramatic sweep of a takings analysis." As he wryly observes, *Takings* is a tough act to follow: "Once the New Deal has been declared unconstitutional...it is hard to do it a second time."

Epstein is mainly concerned with the dispensation of largess by the state when it finds itself in a monopoly situation. For him, the purpose of constitutional law is to "maximize overall [welfare] by the maintenance of competitive markets." If the state's power to dispense benefits goes unchecked, the "social surplus" achieved in open markets will be dissipated by "bargaining games" that waste scarce resources on buying political indulgences or manipulating the political system. Hence, bargaining by the state—its power to contract and to grant—ought to be subject to as much scrutiny as takings, regulation, and taxation.

Bargaining is an attempt to come to terms with the welfare state while trying to find a constitutional way of restraining its excesses. Considering the Supreme Court's hostility or indifference to economic liberties since the New Deal, this is no easy task. What Epstein comes up with is a fairly thin reed that often does not seem up to the challenge: the doctrine of unconstitutional conditions, which holds that the government may not require individuals to surrender their constitutional rights in exchange for government benefits. Developed in the 19th century, this is a relatively obscure legal tenet, which might explain how it managed to survive the Supreme Court's onslaught against the constitutional clauses that deal with economic liberties.

The unconstitutional-conditions doctrine emerged from controversies over state powers of incorporation. Corporate charters created a new form of ownership that bestowed limited liability on firms, a privilege they could not have bargained for in an open market under traditional contract, tort, and property law. Scandals abounded when the states exercised their powers in a discriminatory manner. Epstein notes how wasteful selective incorporation can be because it fritters away the social surplus from incorporation in bidding wars and intrigues that benefit only the government officials controlling the process.

One temptation for the states was to extract onerous conditions from out-of-state corporations. In exchange for the privilege of doing business within certain states, these "foreign" corporations were made to pay discriminatory taxes or waive their constitutional rights to the use of federal courts in cases involving parties from different states. The Supreme Court created the unconstitutional-conditions doctrine to prevent states from imposing conditions of this sort. The states could bar "foreign" corporations, or they could allow them to enter on equal terms with their own corporations, but they could not condition entry on the forfeiture of rights.

In the "foreign" incorporation cases, one can clearly see the "paradox of unconstitutional conditions." The state has the greater power to withhold or grant a benefit but not the lesser power of granting the benefit with unconstitutional conditions attached. In the 1920s the doctrine spread from the incorporation arena to state regulation of public roads and highways, where it served to check disproportionate taxes on interstate trucking (exacted in exchange for the privilege of using state roads).

EPSTEIN WISHES TO PIERCE THE VEIL OBscuring the true nature of such bargains. Although people consent to them because they will be better off as a result, he argues that the deals include coercive conditions that should not withstand constitutional scrutiny. Since the people *are* better off, however, they are unlikely to challenge the conditions.

Epstein is thus tackling Leviathan with an admitted "second-best doctrine," with few and reluctant plaintiffs, and with a smattering of obscure cases covering disparate issues. And, to make matters worse, the unconstitutional-conditions doctrine

appears nowhere in the Constitution. It is entirely a result of judicial construction.

Epstein recognizes these problems. At the beginning of the book he laments that this approach is far from ideal. By the last few chapters, those dealing with welfare and educational benefits, he acknowledges that the unconstitutional-conditions doctrine often will not help resolve the issues under discussion. He expresses increasingly heartfelt regrets that the Supreme Court has buried the economic-liberty doctrines that explicitly limited the state's coercive bargaining powers.

Still, the methodology that Epstein employs in *Bargaining* has one advantage over the one he used in *Takings*: its foundational consistency. While the opening, theoretical chapters of *Takings* combined a natural-rights principle with a utilitarian, social-surplus maximization principle, *Bargaining* jettisons natural rights and fully embraces the law-and-economics paradigm of Pareto superiority, wealth maximization, prisoner's dilemma games, transaction costs, strategic bargaining, and externalities. But Epstein buys this theoretical consistency at a rather steep price, for natural-rights arguments at their best have the virtue of clarity, leading the theorist to pellucid conclusions in all but the most exceptional "lifeboat" cases. *Bargaining*, by contrast, is a messy enterprise, a point the author himself concedes. One gets the sense that Epstein is not very pleased to be writing this book, which lacks the ringing conclusions of its illustrious predecessor.

If one wishes to read Epstein at his best, yet still in his law-and-economics mode, I strongly suggest his *Forbidden Grounds: The Case Against Employment Discrimination Laws*. In that work, the economist's tools work splendidly and lead to conclusions that natural-rights libertarians would in almost all instances find appealing. In contrast, libertarians will find *Bargaining* much less satisfying. Epstein begins his argument from a libertarian "baseline," but he concedes the primacy of government and the legitimacy of the welfare state, which can only be curtailed, not eradicated.

These assumptions lead to some strange conclusions. Epstein describes taxation, for example, as a "set of implicit state offers," and he takes the fact that *all* activity does not cease as confirmation that people prefer economic activity with taxation to no activity at all. I would think what it demonstrates is that people prefer taxes to death.

Yet even with these defects, *Bargaining*'s undertow, in a wiser age, would sink the welfare state. Epstein's complex, often brilliant, sometimes obscure arguments demonstrate that the post–New Deal regime violates a fundamental tenet of constitutional order, the prohibition of forced transfers from one individual to another. Compulsory redistributions are the animating principle of the welfare state. With the Constitution's clauses in defense of property rights eviscerated by the Supreme Court, there are slim pickings left to those who wish to recover the old principles and the free-market order that flourished under them. Lamentably, the doctrine of unconstitutional conditions can do little to change this desiccated constitutional landscape.

Ellen Frankel Paul is deputy director of the Social Philosophy and Policy Center and professor of political science and philosophy at Bowling Green State University.

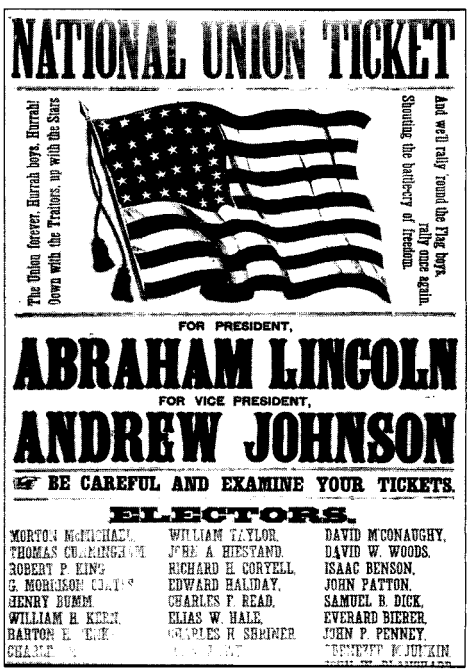
A Libertarian Lincoln?

By Nick Gillespie

The Last Best Hope of Earth: Abraham Lincoln and the Promise of America, by Mark A. Neely Jr., Cambridge, Mass.: Harvard University Press, 214 pages, $24.95

THERE CAN BE LITTLE DOUBT THAT Abraham Lincoln is the most imposing figure in the history of American politics. Washington may be the country's father, Jefferson and Madison its authors, and Wilson and FDR its reinventors. But Lincoln stands tallest as the man who "saved" the union and, not coincidentally, the one who dealt most fully and forthrightly with vexing questions of slavery, individual freedom, and constitutional principles that threatened to destroy the nation he saw as "dedicated to the proposition that all men are created equal."

As a result of this stature, the "meaning" of Lincoln is constantly being redefined. For anyone interested in explicating the American experience, the question is not *whether* Lincoln is important but rather *how* he matters. Hence, the various and varying uses and interpretations of Lincoln: Democrat Mario Cuomo edits a book of his writings, and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This broadside warns voters to beware of fraudulent ballots printed by the opposition. Paper ballots were printed and distributed by parties, not the government.

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the GOP continues to call itself the "party of Lincoln"; southern traditionalist M.E. Bradford likens him to Hitler, while Northeastern fellow-traveler Edmund Wilson compares him to Bismarck and Lenin; conservative Harry Jaffa sees him as a staunch constitutionalist, but neoliberal Garry Wills maintains that, with the Emancipation Proclamation, Lincoln pulled off a "gentle (if benign) swindle" and substituted a "new constitution" for the old one.

Mark E. Neely Jr.'s *The Last Best Hope of Earth: Abraham Lincoln and the Promise of America*, a companion publication to the Huntington Library's 1993–1994 exhibit of Lincolniana, is a welcome addition to the existing literature. Neely, who won a Pulitzer Prize for *The Fate of Liberty: Abraham Lincoln and Civil Liberties*, re-maps heavily explored territory in a way that is consistently fresh and interesting. Though stressing the Civil War period (as befits the subject), Neely explicates the development of Lincoln's political ideology from its Whiggish origins to its Republican terminus. He convincingly debunks many myths—for example, that technology was of primary importance in the Civil War, that Lincoln was a mediocre commander-in-chief, and that he was cavalier about suspending the writ of habeas corpus—and includes an excellent account of the 1864 presidential election campaign. *The Last Best Hope* is, as one would expect of a book published in conjunction with a museum exhibit, marvelously illustrated, with three thick sections of period photographs, documents, and memorabilia.

Neely also emphasizes a variety of economic and constitutional issues that should be particularly interesting to classical liberals. While intended as a book for the general reader, *The Last Best Hope* runs deep in its analysis of Lincoln's defense of free enterprise and his related insistence that "if slavery is not wrong, nothing is wrong." This Lincoln, to be sure, is not meant to be seen as a 19th-century prologue to Milton Friedman or even Jack Kemp (among other things, Honest Abe was fond of protective tariffs and the labor theory of value), but his recognition of the indivisibility of economic and civil liberties is as relevant in the late 20th century as it was in the mid-19th.

FOR NEELY, LINCOLN IS "AN ARCH-CAPITALIST" whose "economic ideas were ...secondary to the question of slavery" and whose "economic views were elicited by the controversy over slavery." Lincoln, we read, "hated slave expansion for what it would do to the American economy and, more particularly, to free white American laborers, degrading their efforts to rise in life. But mainly he hated the expansion of slavery because he deemed the institution itself immoral." This linkage between capitalism and slavery is subtle but nonetheless crucial to understanding Lincoln's political legacy.

Lincoln's revulsion toward slavery stemmed from an intuitive understanding of natural law, as is evidenced by his reading of the Declaration of Independence. Lincoln took Jefferson's claim that "all men are created equal" at face value; the fact that Jefferson himself had urged the exclusion of slavery from the Northwest Territory was proof enough of the Founding Fathers' contempt for the South's "peculiar institution." Beyond that, slavery was plainly incompatible with the notions of liberty upon which the United States was founded. As Lincoln put it in the 1854 Peoria speech ("his first great speech," according to Neely): "I hate [slavery and its spread] because it deprives our republican example of its just influence in the world—enables the enemies of free institutions, with plausibility, to taunt us as hypocrites—causes the real friends of freedom to doubt our sincerity."

Despite his recognition of slavery's "great evil," however, Lincoln's ardent constitutionalism originally prevented him from pushing for its abolition in the states in which slavery was already legal. As Neely puts it, "Before the war no prominent Republican, least of all Lincoln, believed that Congress could pass a law emancipating the slaves in any state." For Lincoln, that was a matter to be decided by the individual states. The *expan-*

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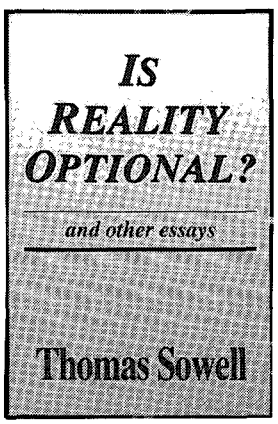

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sion of slavery to new states and territories, however, was a wholly different matter, and Lincoln consistently opposed all such efforts, believing that the containment of slavery would lead to its eventual extinction. Lincoln realized that this was at best a repulsive compromise, but to have usurped the states' constitutional rights, even in order to outlaw slavery, would have amounted to destroying democracy in order to save it.

Lincoln understood that as long as slavery was considered a "moral right," as opposed to a baneful historical "necessity," no one's liberty was safe. In an 1855 letter to his friend Joshua Speed, Lincoln stressed his contempt for the anti-immigrant Know-Nothing Party on grounds that make this clear. "We began by declaring that 'all men are created equal,'" he wrote. "We now practically read it 'all men are created equal, *except negroes.*' When the Know-Nothings get control, it will read 'all men are created equal, *except negroes, and foreigners, and catholics*'" (emphasis in original).

Slavery, for Lincoln, was not merely a negative condition that might be extended indefinitely to ever-larger portions of the country. The main reason it was evil was that it fixed an individual's economic and social status forever, even across generations, due to accidents of birth. Lincoln championed a free-enterprise system partly because it provided the means by which people could advance their desires and opportunities. In 1856, responding to a defense of slavery on the grounds that it was a more efficient arrangement of labor and capital than a market system, Lincoln said scornfully that slave owners "insist their slaves are far better off than Northern freemen....They think that men are always to remain laborers here—but there is no such class. The man who labored for another last year, this year labors for himself, and next year he will hire others to labor for him."

LINCOLN'S THOUGHTS ON THE MATTER continued to develop over the years, and in his annual message to Congress in 1861 he laid out the connection between economic and political liberty even more clearly: "The prudent, penniless beginner in the world labors for wages awhile, saves a surplus with which to buy tools or land for himself; then labors on his own account another while, and at length hires another new beginner to help him. This is the just, and generous, and prosperous system, which opens the way to all—gives hope to all, and consequent energy, and progress, and improvement of condition to all." It has been too long since a chief executive has evinced such a sharply focused understanding of both the ethical and practical arguments for a free-market society.

The main reason slavery was evil, thought Lincoln, was that it fixed an individual's economic and social status forever, even across generations.

And in a time when revisionists are wont to reduce major historical figures such as the Founding Fathers and Lincoln to apologists for a racist, elitist political system, *The Last Best Hope of Earth*, with its subtitled emphasis on "the promise of America," is particularly worth reading. Lincoln realized that the United States was not, as he put it in his December 1862 address to Congress, "the last, best hope of earth" because it was perfect but because it was dedicated to the process, to the promise, inherent in the Declaration of Independence, "that in due time the weights should be lifted from the shoulders of all men, and that *all* should have an equal chance." That Lincoln further understood the economic underpinnings required for fulfilling such a promise is especially worth remembering. ®

Nick Gillespie is assistant editor of REASON.

Defense Convert

By Steven R. Postrel

The Endangered American Dream: How to Stop the United States from Becoming a Third-World Country and How to Win the Geo-Economic Struggle for Industrial Supremacy, by Edward N. Luttwak, New York: Simon & Schuster, 365 pages, $24.00

IN A MARKET ECONOMY, WHEN AN INDUSTRIAL sector declines, those working in it must decide whether to fight for one of the remaining niches or to seek opportunities in other, growing sectors. The demise of Soviet communism has forced this choice on aerospace engineers, shipbuilders, soldiers, and sailors, occasioning much hand wringing in the business pages of our newspapers and in the public pronouncements of our elected officials. There is one subsector of the Cold War establishment, however, whose fate has been ignored: the defense intellectuals and strategists who circulated through and around the U.S. national-security apparatus.

Edward Luttwak has been our nation's most prominent "bad boy" writer on strategy and military affairs, puncturing with equal relish the fatuities of arms controllers, politicians, and generals. Beyond his wit and his unusual willingness to annoy almost every constituency in the diplomatic and military world, Luttwak is distinctive for having developed, in his earlier book *Strategy: The Logic of War and Peace*, general principles of international

Edward N. Luttwak: out of the imploding defense-wonk industry, into economics and trade

DALYA LUTTWAK

strategy that may someday be required reading at military academies. (See "The Paradoxes of War," July 1988.) His decision to migrate out of the imploding defense-wonk industry and into the realm of economics and trade, marked by the publication of *The Endangered American Dream*, is a good indication of the promise and peril that "defense conversion" will have for our economy and culture.

Judging from this work, the peril dominates the promise. The book is an unstable mixture of cocktail-party declinism (complaints about foreign-born taxi drivers and the sluggishness of customs inspectors at Kennedy Airport), hackneyed business journalism, Kevin Phillips–style lamentations about economic inequality, partly digested economic theory, and a variety of rants and tirades on other subjects (many of which seem well taken but irrelevant).

What used to be Luttwak's virtues when he knew what he was talking about —nuance, subtlety, an appreciation of the limits of particular forms of reasoning— have become grotesque defects in *The Endangered American Dream*. The book is a thicket of self-contradictory polemics, with previously rejected arguments deployed opportunistically whenever the mood strikes. Each page is larded with so many qualifications, to-be-sures, and in-any-cases that the reader soon feels like a pinball, pinging and bouncing from one argument to another, never knowing when some obscure rule will convert a previously impassable barrier into an open gate.

Perhaps the most striking example of these defects is the rat's nest made of productivity, capital availability, competitiveness, and wages. Supposedly, the United States suffers from a shortage of long-term, "patient" capital, which leads to underinvestment in plant and equipment, which leads to low labor productivity, which leads to low wages, which leads to our impending "Third-Worldization" as other nations surpass our standard of living. Leave aside for a moment the amateurish mingling together of interest rates and maturities implied by the vague adjective *patient*, the failure to consider worldwide excess capacity in a number of industries as a deterrent to investment, the unsupported assumption that those who invest more in R&D or machinery are always right (Luttwak seems unaware of General Motors' 1980s debacle in wasting literally billions of dollars on unproductive factory automation), and a number of other factual problems with these assertions. The book's own facts contradict its scenario.

In a section called "Productivity Myths," Luttwak notes that U.S. manufacturing productivity in 1980–88, starting from a much higher base, actually grew at the same rate as Japan's and about three times as fast as Germany's. So the whole chain of reasoning described above, endlessly repeated throughout the book, and even used to attack the North American Free Trade Agreement (it would result in too much unskilled labor chasing too little "patient" capital and so drive down wages), must be wrong. But why the obsession with wages and, by implication, with the standard of living? Elsewhere, after all, Luttwak argues that smart industrial policy is bad for consumers and has nothing to do with a country's standard of living; rather, the aim is to recapture the "dignity" of meaningful employment and the "deep satisfactions of working in an exacting industry."

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IN ANY CASE, THE SUPPOSED DEARTH OF OUTside capital in the United States can't really be the main problem, since Ford Motor Company gets an extended thrashing (only partly justified) for failing to "properly" reinvest its profits from the initial success of the Taurus/Sable. Luttwak even refers to this episode as an example of "the cultural disease that ravages American industry." If this charge is just, why are the poor investors of America taking the rap for insufficient "patience"? Should they be entrusting their retirement nest eggs to culturally diseased incompetents?

While it is impossible in a short essay to thoroughly rehearse all of the internal inconsistencies and economic solecisms in *The Endangered American Dream*, the anti-free-trade screed contained in the early part of the book warrants a brief look because it exemplifies the pseudo-sophisticated reasoning endemic among our industrial-policy mandarins. It begins with the standard rhetorical ploy, equating anti-protectionist views with a religious belief taken on faith and impervious to evidence, then bemoans the supposed stranglehold of this blind ideology on our trade and commercial policies.

Now, there are few images more fantastic than the United States as a bastion of purist, unilateral free trade. There is no need to substantiate this point in detail by citing the vast array of American quotas, tariffs, subsidies, and other devices of market intervention; Luttwak himself cites them to argue that, since we're already impure, we ought to systematize our interventions. Neo-mercantilists who believe, against all evidence, that government bureaucrats are good at directing investment are in a poor position to accuse others of ideological blindness.

Luttwak's claim that industrial policy could be implemented competently and free of political favoritism involves a leap of faith wherein the believer actually looks for contrary evidence so as to cling to his doctrine more purely. Thus, he admits that under U.S. conditions Japanese-style policy won't work (page 111). He even admits that Japanese bureaucrats have screwed up frequently and spectacularly, misallocating resources and harassing upstart firms with good ideas (page 107); that the system of trade protections often works to the benefit of Japanese big business and not Japanese society as a whole (pages 91–92); and, most amazingly, that the Japanese probably have a lower standard of living as a result of industrial interventions, although he hedges here (page 110). Despite Luttwak's fuming at free-traders, the pragmatic case against increasing government promotion of selected industries is left undamaged and even reinforced by these blustery equivocations.

Luttwak compares today's obsession with international statistical comparisons of little meaning to the territorial obsessions of 1870–1914, in which nations expended blood, treasure, and security on useless colonial acquisitions.

By contrast, one of the strongest arguments for free trade requires no knowledge of refined economic theory, although Luttwak casually denies it. Protected firms are less productive than those exposed to vigorous foreign competition. This explains why the U.S. auto industry, by its own admission and the experience of millions of consumers, made enormous strides in product quality only after the onslaught from Toyota, Nissan, and Honda. It explains why Japanese food-processing workers, highly protected, produce about one-third as much per hour as their more-challenged American counterparts, according to a McKinsey Global Institute study, which found similar patterns in a number of manufacturing industries.

Especially painful to read are Luttwak's sallies into trade theory. Here, infant-industry and increasing-returns arguments are deployed to slay, in the time-honored way, the dreaded doctrine of comparative advantage. Every time Luttwak mentions it, unfortunately, he confuses comparative advantage with absolute advantage, an elementary error economists try hard to beat out of their undergraduates. This is no minor technical point; it is the bedrock of the "religious" free-trade theory that is supposedly being subjected to searching criticism by the brave, iconoclastic defense strategist.

The theory says that even a nation that is less efficient in every industry will achieve gains from trade, and so will a nation that is more efficient at everything. A common textbook analogy is that a doctor will use a secretary to do her typing, even if she is a better typist as well as a better doctor than her secretary. But Luttwak repeatedly frames the issue in terms of a country having a comparative advantage in a given industry only when it is more efficient in a head-to-head comparison with other nations. A blunder of this magnitude is all too common to be shocking, but it is as though an economist writing about modern military affairs thought that armored cavalry brigades rode horses and carried lances.

IN THE MIDST OF ALL THIS DROSS, THERE glimmers one interesting nugget. Not surprisingly, this idea has been mined from a quarry Luttwak's previous career equips him to work: international politics and strategy. His basic premise is that the end of the Cold War marks the beginning of a new era in which advanced nations no longer consider warfare with one another thinkable. But, he argues, the political legitimacy of nation-states depends on the presence of external threats. In addition, bureaucrats in the now-outmoded diplomatic and military institutions will be unwilling to abandon either their careers in government or their ambitions to orchestrate their countries' fates.

The natural result of these pressures will be to refocus bureaucratic ambitions on what is commonly termed "industrial policy" but Luttwak calls "geo-economic"

strategy. Here the goal is to capture high-wage, high-tech, glamorous jobs for one's own country through the offensive and defensive use of research subsidies, preferential access to credit, protection against imports, and the rest of the familiar mercantilist arsenal that the current chairperson of the President's Council of Economic Advisers loves.

Luttwak compares today's obsession with international statistical comparisons of little meaning to the territorial obsessions of the 1870–1914 period, in which leaders and peoples expended blood, treasure, and security on useless colonial acquisitions. For example, the French sent an expedition to claim territory in the remote Sudan desert, intending to prevent the British from building a fantasy railway between "Cairo and the Cape"; Argentina struggled with Chile to control "useless Andean steppe and Patagonian waste." In those days, people stared at maps and brooded if some other nation's color seemed to be gaining ground, even though most such acquisitions had no implications for security; nowadays we brood over trade deficits with no implications for our prosperity.

One might think from this description that *The Endangered American Dream* is a powerful attack on interventionist trade policy, but of course nothing could be further from the truth. Indeed, a defense intellectual trying to make an impression in the Washington trade-policy wars would get nowhere with a free-trade perspective, since lots of other, more experienced and skilled people already take that view. Moreover, legislators, ambitious bureaucrats, and interest groups are already annoyed by the persistence of anti-intervention sentiment among economists and trade experts; a ready audience exists for someone with an intellectual reputation who will bash free-traders. But how can Luttwak meet this demand and still retain his compelling analogy with the delusion of territorialism?

The answer is simple. Just as *some* territorial acquisitions by Germany could indeed geo-politically threaten France or Great Britain, so allegedly do some foreign industrial successes threaten the United States "geo-economically." Luttwak projects great confidence in his ability to distinguish real from phantom threats in the territorial competition of the 1870–1914 period, but, in an astonishing intellectual abdication for a strategist, he develops no principles at all for making these distinctions in the "geo-economic" arena. Maybe he wants his consulting fees up front.

After much heated rhetoric and alarmed poring over statistics, *The Endangered American Dream* is surprisingly modest in its recommendations for the future: a small White House office for industrial policy with budgetary control over some other agencies and departments; a shift to consumption taxes; some national tests for public-school teachers and students, with teachers who pass receiving supplemental checks from the federal government. These ideas are put forward rather tepidly, and almost no effort is made to prove that they would solve the problems they are supposed to, that they would not have bad side effects, or that they would be politically viable in the long term.

In this, as in the tenor and nature of its criticism of current policy, Luttwak's book is representative of the genre of economic jeremiad which has overstuffed our bookstores and Sunday supplements. Its only distinctive asset relative to the flock of tomes by better-established pundits comes from its author's reputation for creative analytical and critical thought on strategic issues, derived from his days as a defense intellectual.

Ultimately, that asset will not be enough. Like all the other Americans caught up in the painful process of converting to the civilian economy, defense intellectuals will find that there are no shortcuts; they will need to develop new competencies relevant to their new environment. ®

Steven R. Postrel is an assistant professor of policy and organization at the UCLA Anderson Graduate School of Management.

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REASON
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Guns, Drugs, and Rock 'n' Roll

By Thomas W. Hazlett

Weeding out the root causes of violence

"THE DEVIL MADE ME DO IT" WAS Flip Wilson's comic alibi when the moment of truth arrived. Flip simply fingered the all-purpose culprit.

Mr. Wilson may well have been a little too Flip back in the '60s; our society is a dangerous place for reductio ad absurdum. Sociopaths really have found "the devil made me do it" a compelling defense for behavior criminal, antisocial, or just downright rude. Two-and-a-half decades later, we are not having much of a laugh-in. Rather, we are coughing up blood.

The response to social mayhem in the elite centers of opinion, however, is as boldly grotesque as the carnage on the streets. Learned Americans of every political stripe—and conservatives will not have the last laugh—seek policies that "go after" (as if the government were a lean, mean "search & destroy" outfit) the "root causes" of social chaos. Then the esteemed social-engineering expert or unindicted congressman spells out a campaign to harass some segment of the legal (and therefore regulable) sector of society that purportedly will reduce the incentive or ability of those in the illegal sector. Liberals like to regulate weaponry; conservatives like to outlaw drugs; everyone seems to enjoy a splash of TV censorship. ("Your Honor, MTV made me do it!")

Hearings are held, commissions appointed, villains demonized, legislation drafted. Occasionally, rules are enacted—never with any promise that the measure will actually curtail crime or promote civility, but as a "needed first step." The follow-up? Bigger budgets to get at the "root causes."

Our society formerly avoided breakdown because we didn't care about the root causes. We assigned individuals to keep *themselves* in order. "You got some bad root causes, bud? *You* figure it out, and get it fixed." Nowadays an adult can murder his parents with a shotgun while they're relaxing in the den and then put Mom and Dad on trial for all the lousy stuff they did to him. Great social scientists will announce him emotionally troubled, and therefore blameless. The criminal act has become an incidental after-effect—what we really care about is the root causes. And do our utopians have an herbicide plan!

Gun Control and Federal Pay Scales. We have 215 million guns in America. They have been purchased (or otherwise procured) for hunting, offense, or defense. Maybe hunters will take up another sport, but I think we might have to pay the BATF agents assigned to collect these 215 million firearms a healthy off-scale increment. And replace them often.

Drug Prohibition as a Gang Development Program. The Drug Crisis really is a crisis—not of desperate drug taking but of desperate drug buying and lucrative drug selling. By driving out the profiteering pharmaceutical companies, we invite in the neighborhood punk and make him the first guy on his block to sport a Beemer. This social science ain't rocket science; we had a dry run (literally) with Prohibition's gentle nurturing of La Cosa Nostra. The conservative folderol that legalizing drugs will tell impressionable youngsters it's OK to snort up is foolishness so perfect that even liberals should be impressed. The right-wing impersonation of Mussolini's Fascists ("everything that is not permitted is forbidden") is superb, but just a tad clichéd, don't you think? Let us remind the Bennett-addictines: In a free society, the state permits all kinds of self-destructive behavior that is stupid, obnoxious, or foul. Like being a Republican.

Getting Violence off TV and Back in the 'Hood, Where It Belongs. Media violence is a real problem; I just cringe when I see the thwacking given Reginald Denny. Of course, the censoring of real, live news is never the frontispiece for rabble-rousers pushing regulation; it is, however, the underlying reality. There is far more violence in the news than on sitcoms or even cop shows. And it is of the brutal, hideous sort. Censoring the problem is hardly a solution to the problem, as some notable thinkers concluded some 200 years ago.

It appears clear that individuals commit crimes when they fail to deal with their own menacing "root causes," and that the one reliable way to help their emotional development process is to give them meatier incentives to get control. Banning their tools or their inspiration often results in reckless political intrusions that fail to crush the devil within us all.

Eric Hoffer noted, upon his horrifying glance at the U.S. crime problem 20 years ago, that the central urban policy failure of our time was the inability of decent people to get angry. I fear that our concern over the market for guns, drugs, and steamy Madonna rock videos is further manifestation of our weak stomach for confronting the violent perpetrator *mano a mano.* Freeing our police and prisons from counterproductive Big Brothering and siccing them upon those animalistic stalkers who truly deserve society's wrath seems to frighten America's ruling class worse than a gun-toting, dope-smoking Ninja Turtle cracking heads on a Saturday morning cartoon. ®

Contributing Editor Thomas W. Hazlett teaches economics and public policy at the University of California, Davis.

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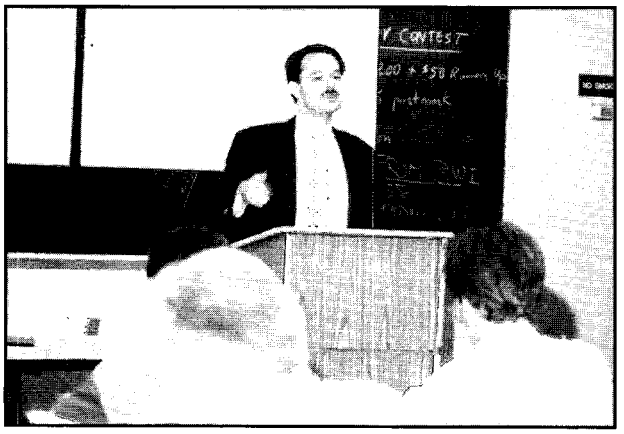

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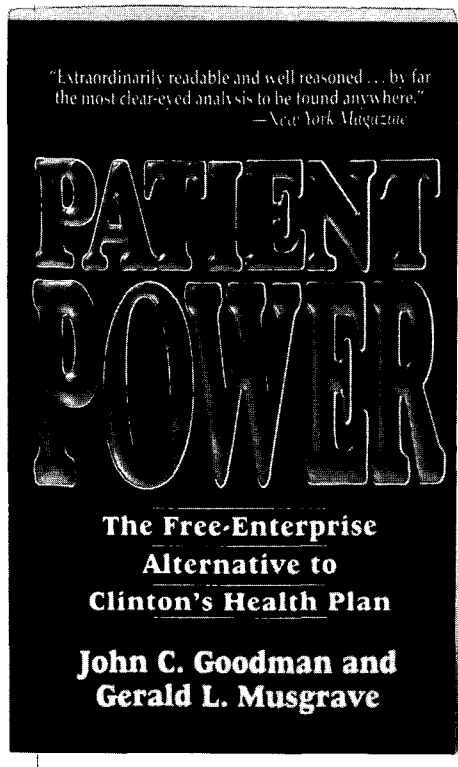
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